

DOCUMENTS ON KASHMIR PROBLEM

DOCUMENTS ON KASHMIR PROBLEM

Edited by
M.S. Deora
R. Grover

VOL. X

Discovery Publishing House
NEW DELHI-110002

MAIN

First Published, 1991

© Editors

ISBN 81-7141-155-X (Set)

Published by : DISCOVERY PUBLISHING HOUSE
4594/9, Darya Ganj, New Delhi-110002

Printed in India at Sangita Printers, Maujpur Delhi-110053

DS485

K21D43

1111

1.10

AMIN

Reports and Recommendations

Contents

Introduction	xiii
United Nations Commission for India and Pakistan (UNCIP)—Introduction.	1
Establishment of the Commission	4
(a) Resolution submitted by the representative of Belgium adopted at the 229th Meeting of the Security Council, On 17 January 1948.	4
(b) Resolution submitted by the Representative of Belgium, Adopted by the Security Council at 230th Meeting on 20 January 1948.	5
(c) Resolution submitted jointly by the representatives of Belgium, Canada, China, Colombia the UK and USA adopted at 236th Meeting of the Security Council on 21 April, 1948.	6
(d) Resolution submitted by the representative of Syria adopted at the 312th Meeting of the Security Council, 3 June 1948.	13
(e) Letter dated 22 November 1948 from the Chairman of the United Nations Commission for India and Pakistan to the President of the Security Council Concerning the Situation in Kashmir.	14

- First Interim Report of the United Nations Commission for India and Pakistan.** 17
1. Resolution adopted by the Security Council at its 230th Meeting, 20 January 1948 (S/654). 80
 2. Resolution adopted by The Security Council at its 286th Meeting, 21 April 1948, Concerning The India-Pakistan Question (Draft resolution submitted jointly by Belgium, Canada, China, Colombia, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/726) See Official Records of the Security Council, Third year, Supplement for April 1948, Page 8 to 12). 82
 3. Corrigendum to the Letter Dated 5 May 1948 from The Representative of India to the President of The Security Council (S/734/Corr.1) 82
 4. Letter Dated 30 April, 1948 from The Representative of Pakistan to the President of the Security Council (S/735) See Official Records of the Security Council, third year, Supplement for May 1948, Pages 40 to 42 83
 5. Resolution on The India-Pakistan Question Adopted by The Security Council at its 312th Meeting, 3 June 1948 (S/819) See Official Records of the Security Council, third year, No. 79, Page 21 (312th Meeting). 83
 6. Letter dated 15 January 1948 from the Minister for Foreign Affairs of Pakistan Addressed to the Secretary General concerning the situation in Jammu and Kashmir, (S/646 and Corr 1). 83
 7. Notes on the Meeting of the Minister for Foreign Affairs of Pakistan with two members of the Commission (S/AC. 12/21) 111

8. Notes on the informal Meeting of the Minister for Foreign Affairs of Pakistan with two Members of the Commission (S/AC.12/22) 114
9. Notes on the Meeting of the Minister for Foreign Affairs of Pakistan with three members of the commission. (S/AC.12/40). 119
10. Notes on the Meeting of the Minister for Foreign Affairs of Pakistan with three members of the Commission. (S/AC/12/41). 121
11. Notes on the Meeting of the Commission with the Prime Minister of the Government of India in his office on 14 August 1948. (S/AC.12/45) 127
12. Summary of the meeting of representatives of the Government of India with the members of the Commission to discuss the Commission's resolution of 13 August (S/AC.12/46). 128
13. Letter dated 9 June 1948 from the President of the Security Council to the Chairman of the Commission (S/AC.12/1/Corr. 1). 137
14. Letter dated 9 June 1948 from the President of the Security Council to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/2) 138
15. Letter dated 5 June 1948 from the representative of India transmitting a communication from the Prime Minister and Minister for External Affairs of the Government of India (S/825). 139
16. Rules of Procedure of the Commission. (S/AC.12/4/Rev. 1) 139
17. Letter dated 22 June 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India. (S/AC.12/10) 151

18. Cablegram dated 26 June 1948 from the Prime Minister and Minister for External Affairs of the Government of India to the Chairman of the Commission (S/AC. 12/13). 151
19. Letter dated 1 July 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India. (S/AC. 12/16). 152
20. Letter Dated 8 July 1948 From the "Azad Kashmir Government" to the Chairman of the Commission. (S/Ac. 12/Info. 3). 153
21. Report Made by Sir Girja Bajpai, Representative of the Government of India, on his Statement before the Commission at its 13th Meeting on 13 July 1948 (S/Ac. 12/Info. 2). 160
22. Resolution adopted by the commission at its 15th Meeting, held on 14 July 1948 in Faridkot House, New Delhi. (S/AC. 12/17). 165
23. Communication dated 17 July 1948 from the Government of Pakistan to the Chairman of the Commission concerning its resolution. (S/AC. 12/17) of 14 July (S/AC. 12/18). 166
24. Letter dated 15 July 1948 from the Government of India to the Chairman of the Commission concerning its resolution (S/AC. 12/17) of 14 July (S/AC. 12/19). 166
25. Resolution adopted by the Commission at its 19th Meeting, held on 20 July 1948 in Faridkot House, New Delhi (S/AC. 12/23). 167
26. Letter and Memorandum dated 19 August 1948 from the Minister for Foreign Affairs of Pakistan to the Chairman of the Commission. (S/AC. 12/44) 168

27. Letter dated 27 August 1948 from the Chairman of the Commission in reply to the letter and Memorandum dated 19 Aug. 1948 (S/AC. 12/44) from the Minister for Foreign Affairs of Pakistan (S/AC. 12/55). 176
28. Letter dated 1 January 1948 from the representative of India to the President of the Security Council (S/628). 181
- Second Interim Report of the United Nations Commission for India and Pakistan. 188
1. Letter dated 22 November 1948 from the Chairman of the Commission to the President of the Security Council transmitting a letter from the Foreign Minister for Pakistan. 198
2. Letter dated 30 November 1948 from the Chairman of the Commission to the President of the Security Council enclosing a copy of a letter dated 28 November 1948 from the representative of India to the Chairman of the Commission. 202
3. Basic Principles for a plebiscite proposed by the Commission to the Governments of India and Pakistan on 11 December 1948. 206
4. Communication dated 23 December 1948 from the Government of India Addressed to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan. 209
5. Communications Dated 25 December 1948, from the Government of Pakistan Addressed to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan. 218
6. Press Communiqués Issued by the Commission on 7 January 1949. 223

—Third Interim Report of the United Nations Commission for India and Pakistan.	224
I. Composition of the Commission.	224
II. Chronological Survey.	226
III. Introduction	244
IV. The Period From February to November 1949.	257
V. Analysis of The Main Problems.	268
VI. CONCLUSIONS.	300
VII. Recommendations	304
Report of Mr. McNaughton	327

Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947, was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nehru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency, of 1931 awakened the national aspirations of the Kashmiris, which ultimately helped in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet

Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir. Launching this struggle for a decisive victory, Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people...the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh. Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress president that people in Kashmir were groaning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade and the peoples' militia to defeat the aggression

of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyen of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocaust. There was a good rapport between Sheikh Abdullah, Mahatma Gandbi and Pandit Jawaharlal Nehru. Congress demanded the release of Sheikh Abdullah, and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 [S/628]. Pakistan made counter complaint [S/646] but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolution [S/651 and S/654]. It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts [S/ 1100; S/1196, and S/1430]. Part first of the report contained provisions for a cease fire. Part two dealt with a truce agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 6 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The security Council then appointed mediators. In 1949 General Mc Naughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between India and Pakistan. He submitted five reports S/2375, S/2448, S/2611, S/2783 and S/2967.

In July-August 1953 and in May 1955 the Prime Minister of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite [SCOR, 12th Yr., Mtg. 761]. Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. [SCOR, 12th Yr. Mtgs. 762, 723 and 794]. The Security Council favoured plebiscite by adopting a resolution [S/3739] on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, [S/2821].

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mookerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and uncereemonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering of the Jarring report and directed P. Graham to make recommendations [S/3984] to the parties for facilitating a peaceful settlement and for the implementation of the resolution of the UNCIP of 15 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination [SCOR; 17 Yr. Mtg. 990]. In the subsequent meetings of the Security Council [Mtgs. 1007 to 1016] Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions [SCOR, Mtg. nos. 1009, 1011 and 1016] and supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in persuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union [SCOR, 17 Yr. Mtg. 1016] Prime Minister Jawaharlal

Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and Ayub agreed for negotiated settlement. Six round of Bhatto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting [S/5516] to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 [Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114]. Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". [Mtg. nos. 1088, 1104, 1113 and 1115]. Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate. [SCOR, Mtg. no. 117].

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965 on charge of anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declarations, signed on 10 January 1966 restored the *Status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Aziz Ahmed and

later on 14 January 1966 President Ayub Khan declared that peace could not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also blamed India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966, Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the UNCIP resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite [GAOR, Pl. Mtg. 1423]. He also tried to raise this issue in the Commonwealth Prime Ministers' meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self determination. Even Prime Minister Mrs. Indira Gandhi gave statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting [GAOR, Plu. Mt. 1584] and demanded "self-determination" for the people Kashmir, to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting [GAOR, Pl. Mtg. 1982] and Pakistan's National Affairs Minister Nawabzada Muhammad Sher Ali Khan, [GAOR Pl. Mtg. 1775] on October 2, 1969. Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations [GAOR, Pl Mtg. 1853] on 29 September 1970. Meanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth" Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they were imparted training by Pakistani officers. The subversive activities of the Pakistani infiltrators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for 'no-war pact' was turned down by Ayub Khan who described this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embarrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relation. General Yahya Khan accepted the proposal with provision that the machinery of Indo-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of

letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead President Rahya Khan banned all the exchange of printed materials between India and Pakistan, commercial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising was boggy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airline plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-pakistan war of 1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. President Zia-ul-Haq, Prime Minister Benazir Bhutto, Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications of the Government of India and Pakistan, United Nations and official documents, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates—reports and recommendations, letters, telegrammes etc. The publication would help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

United Nations Commission for India and Pakistan (UNCIP)

Introduction

At the 227th through 229th meetings (15-17 January), the Security Council heard statements by the representatives of the two parties concerned. At the 229th meeting, a draft resolution submitted by the representative of Belgium (S/651), calling upon the parties to take all measures to improve the situation, was adopted as well as a proposal by the representative of the United Kingdom that the President of the Council meet with the representatives of the two Governments concerned so as to try to find common ground for a settlement.

Following his talks with the parties, the President reported to the Council at its 230th meeting (20 January) and submitted a draft resolution (S/654) which had been drawn up as a result of the talks, establishing a commission of three members to investigate and to exercise mediation. One member was to be selected by India, one by Pakistan, and the third was to be designated by the two so selected. The resolution was adopted at the same meeting.

At its 286th meeting (21 April), the Council considered and adopted a draft resolution (S/726) submitted jointly by the representatives of Belgium, Canada, China, Colombia, the United Kingdom and the United States, enlarging the membership of the Commission established by the resolution of 20

January 1948 to five and recommending to the Governments of India and Pakistan various measures designed to bring about a cessation of the fighting and to create conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir was to accede to India or Pakistan. At the 287th meeting of the Council (23 April), Belgium and Colombia were nominated as the two additional members of the Commission, the members named earlier being Argentina (chosen by Pakistan) and Czechoslovakia (Chosen by India).

After further discussion at the 289th meeting (7 May), the President designated the United States as the third member of the Commission, in view of the failure of Argentina and Czechoslovakia to agree upon a third member.

At the 312th meeting (3 June), the Security Council adopted a modified version of a Syrian draft resolution (S/819), directing the commission of mediation to proceed without delay to the area of dispute and to study and report to the Council, when it considered it appropriate, on the matters raised in the letter dated 15 January 1948 from the Foreign Minister of Pakistan in the order outlined in paragraph D of the Council's resolution of 20 January 1948.

On 22 November 1948, the United Nations Commission submitted to the Security Council an interim report (S/1100) dealing with its activities until 22 September 1948. A second interim report (S/1196) was submitted by the Commission on 13 January 1949. In these reports the Commission informed the Security Council of its adoption, on 13 August 1948 and 5 January 1949, of resolutions embodying a cease-fire order and principles to serve as a basis for a truce agreement between the parties, as well as measures relating to the holding of a plebiscite following implementation of the demilitarization process to be established in the truce agreement. The Commission stated that the cease-fire had become effective as of 1 January 1949.

The United Nations Commission returned to the sub-continent on 4 February 1949 in order to work on the implementation of the agreement embodied in the two resolutions. In presenting the Commission's third interim report to the Security Council (S/1430 and Add. 1 and 2), submitted on 5

December 1949, its Chairman reported that since the Commission's return to the sub-continent, despite constant efforts, no substantial progress had been made in implementing part II of the Commission's resolution of 13 August 1948 which dealt with the truce and was concerned principally with the withdrawal of troops. The Commission had therefore deemed it advisable to refer the matter back to the Security Council with the recommendation that the Council should designate, in lieu of the Commission, a single individual with broad authority to endeavour to bring the two Governments together on all unresolved issues.

On 16 December 1949, the representative of Czechoslovakia on the Commission submitted a minority report (S/1430/Add. 3) criticizing certain aspects of the work of the Commission and calling for the establishment of a new United Nations Commission for India and Pakistan, composed of representatives of all the States members of the Security Council in order to guarantee the full independence of the Commission.

The Council considered these reports at its 457th meeting (17 December), when it decided to request the President of the Council to meet informally with the parties concerned and examine with them the possibility of finding a mutually satisfactory basis for dealing with the question at issue. No agreement was reached as a result of the efforts made by the President. After further discussion, on 14 March 1950 (470th meeting), the Council adopted resolution S/1469, submitted by Cuba, Norway, the United Kingdom and the United States, which provided for appointment of a United Nations Representative to assist in the preparation and to supervise the implementation of the programme of demilitarization to be agreed upon by the parties, and to exercise the powers and responsibilities devolving upon the Commission. The Representative was also empowered to explore other possible solutions of the question. On 12 April 1950, the Security Council appointed Sir Owen Dixon, of Australia, as United Nations Representative.

Establishment of the Commission

(a) Resolution submitted by the representative of Belgium adopted at the 229th Meeting of the Security Council. On 17 January 1948.

The Security Council

Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan.

Recognizing the urgency of the situation.

Taking Note of the telegram addressed on 6 January 1948 by its President to each of the parties and of their replies thereto, in which they affirmed their intention to conform to the Charter of the United Nations.

Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation.

Further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon. (S/651)

Note : The resolution was adopted at the 229th meeting of the Security Council by 9 votes to none, with 2 abstentions (Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

Decision

At its 229th meeting, on 17 January 1948, the Council decided that the President should invite the representatives of

India and Pakistan to take part in direct talks under his guidance in an effort to find some common ground on which the structure of a settlement might be built.

(b) *Resolution submitted by the Representative of Belgium, Adopted by the Security Council at 230th Meeting on 20 January 1948.*

The Security Council

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security and that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency.

Adopts the following resolution :

A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected. Each representative on the Commission shall be entitled to select his alternates and assistants.

The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

The Commission is invested with a dual function : (1) to investigate the facts pursuant to Article 34 of the Charter of the United Nations; (2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council have been carried out.

The Commission shall perform the functions described in clause C : (1) in regard to the situation in the Jammu and

6 DOCUMENTS ON KASHMIR PROBLEM

Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

The Commission, its members, alternate members, their assistants, and its personnel shall be entitled to journey, separately or together, whether the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

The Secretary-General shall furnish the Commission with such personnel and assistance as it may consider necessary (S/654)

Note : The resolution was adopted at the 230th meeting of the Security Council by 9 votes to none, with 2 abstentions (Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

(c) Resolution submitted jointly by the Representatives of Belgium, Canada, China, Colombia the UK and the USA adopted at 236th meeting of the Security Council on 21 April 1948.

The Security Council,

Having considered the complaint of the Government of

India concerning the dispute over the State of Jammu and Kashmir,

Having heard the representative of India in support of that complaint and the reply and counter-complaints of the representative of Pakistan,

Being strongly of the opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting,

Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

Considering that the continuation of the dispute is likely to endanger international peace and security,

Reaffirms its resolution 38 (1948) of 17 January 1948;

Resolves that the membership of the Commission established by its resolution 39 (1948) of 20 January 1948 shall be increased to five and shall include, in addition to the membership mentioned in that resolution, representatives of . . . and . . . , and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five;

Instructs the Commission to proceed at once to the Indian subcontinent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution; and to this end.

Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impar-

tial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan :

Restoration of Peace and Order

The Government of Pakistan should undertake to use its best endeavours :

- (a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;
- (b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

The Government of India should :

- a) When it is established to the satisfaction of the Commission set up in accordance with the Council's resolution 39 (1948) that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;
- (b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;
- (c) When the Indian forces have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles :

- (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State;
- (ii) That as small a number as possible should be retained in forward areas;
- (iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

The Government of India should agree that until such time as the Plebiscite Administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

Plebiscite

The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level while the plebiscite is being prepared and carried out.

The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

The Government of India should, at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

- (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.
- (b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.
- (c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.
- (d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.
- (e) The Administrator should have the right to communicate directly with the Government of the State and with the Commission of the Security Council and, through the Commission, with the Security

Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

The Government of India should undertake to prevent, and to give full support to the Administrator and his staff in preventing, any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15 August 1947 have entered it for a lawful purpose.

The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that :

- (a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens;
- (b) There is no victimization;
- (c) Minorities in all parts of the State are accorded adequate protection.

The Commission of the Security Council should at the

end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

C. General Provisions

The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.

The Commission should establish in Jammu and Kashmir such observers as it may require of any at the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

The Security Council Commission should carry out the tasks assigned to it herein. (S/726)

Adopted at the 286th meeting

The five members of the United Nations Commission for India and Pakistan were Czechoslovakia (nominated by India on 10 February 1948); Belgium and Colombia (appointed by the Council on 23 April 1948—see the decision below); Argentina (nominated by Pakistan on 30 April 1948); United States of America (designated by the President of the Council on 7 May 1948, in the absence of agreement between Argentina and Czechoslovakia on the member to be designated by them).

Decision

At its 287th meeting, on 23 April 1948, the Security Council, pursuant to its resolution 47 (1948), appointed Belgium and Colombia as the additional members of the United Nations Commission for India and Pakistan.

Note : The resolution was adopted by 7 votes to none, with 4 absentions (Belgium, Colombia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

- (d) *Resolution submitted by the representative of Syria adopted at the 312th Meeting of the Security Council, 3 June 1948*

The Security Council

Reaffirms its resolutions 38 (1948) of 17 January, 39 (1948) of 20 January and 47 (1948) of 21 April 1948;

Directs the United Nations Commission for India and Pakistan to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by resolution 47 (1948);

Directs the Commission further to study and report to the Security Council when it considers it appropriate on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15 January 1948, in the order outlined in paragraph D of Council resolution 39 (1948) (S/819).

Note : The resolution was adopted at the 312th meeting of the Security Council by 8 votes to none, with 3 abstentions (China, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

Decision

At its 382nd meeting, on 25 November 1948, the Council invited the Rapporteur of the United Nations Commission for India and Pakistan to take a place at the Council table.

At the same meeting the Council decided : (1) to inform the United Nations Commission for India and Pakistan that it could count on the full support of the Security Council and that the Council wished it to continue its work for the purpose of arriving at a peaceful solution, and (2) to bring to the attention of the Governments of India and Pakistan the need for refraining from any action which might aggravate the military or the political situation and consequently prejudice the negotiations being carried on for the purpose of arriving at a final and peaceful understanding in the matter.

- (e) *Letter dated 22 November 1948 from the Chairman of the United Nations Commission for India and Pakistan to the President of the Security Council concerning the situation in Kashmir*

I have the honour to transmit the following communication from the Foreign Minister of Pakistan :

"I have the honour to inform Your Excellency that I have been instructed by the Pakistan Government to transmit at once the following communication to the Security Council :

"The Pakistan Government wish to draw the attention of the Security Council to the developments in Kashmir which constitute definite violations by India of the undertaking given by both Governments in response to UNCIP's resolution of 19 September 1948. This resolution appealed to both Governments to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement. The Government of Pakistan have scrupulously observed the undertaking given by them. On the other hand, India now appears determined to force a military decision in Kashmir.

"Indian Army has recently been reinforced in Jammu area by three infantry brigades, four militia battalions, one field Artillery regiment, one medium artillery regiment. A corps headquarters has been established in Naushera controlling three divisions of army, one airborne division operating in Riasi and Poonch Districts. In Srinagar area reinforcement of two additional infantry brigades plus three battalions and one regiment of field artillery have arrived. Indian Air Force operating in Kashmir has also been considerably reinforced. Last September Indian Army made an attack in brigade strength on Zojilla Pass, which was repulsed. In October an attack in brigade strength north from Jammu towards Uri was also held, while an attack by one brigade from Jhangar towards Kotli was held fifteen miles north-west of Jhangar. Indian Army has now started major offensive by at least one division supported by armoured cars from Rajauri towards Kotli and Mendhar and is continually moving up reinforcements to Naushera. Object undoubtedly is all-out offensive to obtain possession of Western Kashmir

including Mirpur, Mangla Head Works and whole of Poonch. Heavy fighting is now in progress on this front and renewed flow of refugees into West Pakistan has already begun as a result of this Indian Army offensive. Indian army has also renewed attack by at least one brigade over Zojilla Pass and has penetrated defences of Dras. These attacks on both fronts are being supported by maximum air action. It is quite clear that India's object is to secure a decision by military means immediately and so face United Nations with a *fait accompli*. Hitherto Azad forces with minimum support by Pakistan Army acting in a purely defensive role have managed to hold Indian aggression. Pakistan Air Force has so far not been employed in a combat role.

" 'Pakistan Government cannot emphasize too strongly to the Security Council that unless immediate steps are taken by them to halt Indian Army offensive the Pakistan Government will have no option but to change their policy of using minimum regular forces in Kashmir and will have to undertake counter-offensive with all available resources in an endeavour to prevent the over-running by Indian Army of Poonch and Mirpur Districts. This must inevitably lead to most bloody fighting between regular Pakistan and regular Indian forces which up till now Pakistan Government have sincerely endeavoured to avoid. The situation is therefore fraught with possibilities of wide extension of armed conflict.'

In the course of my informal meeting with the Commission on 16 November, I understood that the Commission was formulating the basic conditions for a plebiscite under Part III of its resolution of 13 August, 1948, and that it intended to present its proposals very shortly to the representatives of India and Pakistan. Realizing the delicacy of the task upon which the Commission is engaged, and being extremely apprehensive that the efforts of the Commission to bring about a peaceful settlement of the disputes between India and Pakistan might be completely frustrated by India's attempt to achieve a military decision in Jammu and Kashmir, I have the honour to transmit my Government's communication to the Security Council through the Commission instead of sending it direct.

In view of the grave situation created by the aggressive

action of India, which threatens to flare up into an armed conflict of the most serious magnitude between two states, Member of the United Nations, I would request that the Commission may be pleased to transmit the Pakistan Government's communication to the Security Council, and to take such urgent action as the Commission may deem appropriate and effective to cope with the emergency. The Commission will readily appreciate that a military decision achieved by one party to the Kashmir dispute, while the Commission is within sight of the formulation of its proposals for a peaceful settlement of the dispute, would from every point of view be a disaster, and that urgent and effective action is needed to avert it.

(Signed) Zafrullah Khan
*"Minister for Foreign Affairs
 and Commonwealth Relations,
 Government of Pakistan"*

The United Nations Commission for India and Pakistan, as is noted in the above letter, is at present engaged in the preparation of bases for further negotiations with the Governments of India and Pakistan, and is awaiting the replies of the representatives of the two Governments to its initial suggestions. The Commission envisages its return to the sub-continent as soon as the development of the present consultations with representatives of the two Governments here in Paris renders this desirable.

The Commission has addressed a communication to the Secretary-General of the Indian Ministry of External Affairs, who is at present in Paris, asking him to secure, as a matter of urgency, his Government's observations on the situation referred to in the communication from the Foreign Minister of Pakistan. The Commission at the same time has appealed to the Government of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful final settlement.

In an effort to obtain specific information on the present military situation, the Commission is in communication with the Secretary-General regarding the appointment of a military adviser who would be dispatched to the Indian sub-continent as soon as practicable and keep the Commission currently informed. The Secretary-General is being addressed separately on this subject.

The Commission will keep you informed of further developments in the situation.

(Signed) Alfredo Lozano
Chairman

(Source : S/1087)

(f) First Interim Report of the United Nations Commission for India and Pakistan

A. Purpose of the Report

The Commission submits this interim report in pursuance of the Security Council's resolutions of 20 January, 21 April and 3 June 1948 instructing it to keep the Security Council informed on matters concerning the situation in the State of Jammu and Kashmir and on actions taken under the resolutions.

In accordance with the instructions contained in the resolution of 21 April, the Commission proceeded to the Indian sub-continent and placed its good offices and mediation at the disposal of the Governments of India and Pakistan. However, the situation that confronted the Commission upon its arrival was different from that which had been envisaged by the Security Council during the deliberations which preceded the formulation of its resolutions, inasmuch as regular Pakistani troops were within the frontiers of the State of Jammu and Kashmir participating in the fighting.

This new element necessarily influenced the approach of the Commission with regard to the implementation of the

Security Council's resolution of 21 April. Agreement between the Governments of India and Pakistan on the terms for cessation of hostilities became the first prerequisite for the ultimate settlement.

After thorough consultations with the Governments concerned, and consideration of the military aspects of the problem as explained by the High Commands of the Indian and Pakistan Armies, the Commission submitted its resolution of 13 August 1948, for a cease-fire and truce agreement, through which it sought to achieve this immediate objective, linking it at the same time with the study of conditions for a peaceful and final settlement of the dispute between the two Dominions.

The Commission furnished both Governments with detailed written and oral elucidations regarding all points of its proposals upon which clarification was requested. The Government of India signified its acceptance of the resolution as a whole. The Government of Pakistan attached to its acceptance certain conditions which went beyond the compass of the resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations to bring about a peaceful and final settlement in the State of Jammu and Kashmir.

The text of the resolution and the related correspondence with India and Pakistan were released to the Press in order that the public might have a complete picture of the aims and purposes of the resolution as interpreted by the Commission to both Governments.

The Commission, having no enforcement measures at its disposal and being an organ of good offices and mediation, felt that it had temporarily exhausted the possibilities of further negotiations in the sub-continent. Consequently, the Commission decided that it should prepare an interim report informing the Security Council of its endeavours to the date of departure from the sub-continent and the circumstances which determined its actions.

B. Structure, Scope and Competence of the Commission

The genesis of the Commission is composed of two main stages : the resolution of 20 January, which created a commission of mediation and led to the resolution of 21 April, which, in turn, explicitly formed the Commission and gave it terms of reference. Its structure, scope and competence are derived as follows :

Security Council Resolution of 20 January 1948

By the resolution of 20 January 1948 (S/654) the Security Council established a Commission composed of three members, one to be selected by India, the second by Pakistan, and the third to be designated by the two members so selected. The resolution instructed the Commission to proceed to the sub-continent as quickly as possible, to act under the authority of the Security Council and, in accordance with its directions, to keep the Security Council currently informed of the Commission's activities and of developments of the situation; and to report to the Security Council regularly, submitting the Commission's conclusions and proposals.

The resolution invested the Commission with a dual function : (1) to investigate the facts pursuant to Article 34 of the Charter; (2) to exercise any mediatory influence likely to smooth away difficulties, carry out the directions of the Security Council, and to report how far the advice and direction of the Security Council had been implemented.

It empowered the Commission to perform these functions in regard to (1) the situation in the State of Jammu and Kashmir; and (2) other situations when the Security Council would so direct.

The Security Council instructed the Commission to take its decisions by a majority vote and to determine its own procedure. The Council authorized the Commission to journey separately or together wherever the necessities of its tasks required, and directed the Secretary-General to furnish such personnel and assistance as it might consider necessary.

Security Council Resolution of 21 April 1948

Subsequent to the establishment of the Commission, various drafts were submitted in the Security Council in an effort to arrive at a resolution the conditions of which would be acceptable to India and Pakistan. Both Governments, however, made reservations to certain parts of the draft resolution. On 21 April 1948, the Security Council adopted a revised draft resolution presented jointly by Belgium, Canada, China, Colombia, the United Kingdom and the United States of America (S/726). The objections regarding the implementation of the resolution which had been raised by India and Pakistan before the adoption were maintained and expressed thereafter (S/734/Corr. 1 and S/735).

In this resolution, the Security Council enlarged the membership of the Commission to five. It recommended to the Governments of India and Pakistan measures which it considered appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite in order to decide whether the State of Jammu and Kashmir was to accede to India or Pakistan.

To assist the two Governments in carrying out the measures recommended, the Security Council instructed the Commission "to proceed at once to the Indian sub-continent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order, and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and [it] further instructs the Commission to keep the Council informed of the action taken under the resolution..." (S/726).

The Security Council instructed the Commission to certify to the Council whether the plebiscite had or had not been free and impartial.

Security Council Resolution of 3 June 1948

By the resolution of 3 June (S/819), the Security Council

reaffirmed its resolutions of 17 and 20 January and of 21 April. It directed the Commission to proceed without delay to the area under dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21 April 1948.

On 15 January 1948, the Minister of Foreign Affairs of the Government of Pakistan addressed a letter to the Secretary-General transmitting three documents (S/646 and Corr.1). The first of these documents was the reply of the Government of Pakistan to the complaint raised by the Government of India against Pakistan under Article 35 of the United Nations Charter. The second document stated other complaints of Pakistan against India (concerning Junagadh and Manavadar, fulfilment of financial and military agreements, and genocide). That document also requested the Security Council to adopt appropriate measures for the settlement of these disputes and for the restoration of friendly relations between the two countries. The third document gave particulars of the Pakistan case referring to matters dealt with in the previous two documents.

The resolution of 3 June 1948 directed the Commission further to study and report to the Security Council when it considered it appropriate on the matters raised in the aforesaid letter in the order outlined in paragraph D of the Security Council resolution of 20 January 1948.

Composition of the Commission and Nomination of its Members

In pursuance of the resolution of 20 January 1948, the Government of India selected Czechoslovakia to serve on the Commission. This was announced to the Security Council on 10 February by the President. On 21 April 1948, the Security Council enlarged the membership of the Commission from three to five. On 23 April two additional countries, Belgium and Colombia, were nominated as members of the Commission by the Security Council. On 7 May 1948, the President of the Security Council indicated that the Government of Pakistan had requested that Argentina designate a representative to serve on the Commission. On the same date, the President of the Security Council nominated the United States of America as the

fifth member of the Commission.

Compositions of Delegations

The delegations of the five countries which constitute the Commission are as follows :

(1) *Representatives*

Argentina	Minister Ricardo J. Siri
Belgium	Minister Egbert Graeffe
Colombia	Minister Alfredo Lozano
Czechoslovakia	Ambassador Josef Korbel
United States of America	Ambassador J. Klahr Huddle

(2) *Alternate Representatives*

Argentina	Minister Carlos A. Leguizamon
Belgium	Mr. Harry Graeffe
Colombia	Mr. Hernando Samper
United States of America	Mr. C. Hawley Oakes

(3) *Advisers to the representative of the United States of America*

Mr. J. Wesley Adams, Jr.
Major Francis M. Smith (U. S. Army)

(4) *Secretary-Stenographers for the delegation of the United States of America*

Mr. William Goode
Mr. Harrison Troop

Secretariat

The Secretary-General of the United Nations, in

compliance with the Security Council resolution of 20 January 1948, designated the following personnel to assist the Commission in its task :

Personal Representatives of the Secretary General

Mr. Erik Colban

Principal Secretary

Mr. Arnold V. Kunst

Deputy Principal Secretary

Mr. Henry S. Bloch

Personal Adviser and Assistant to Mr. Colban

Mr. Richard Symonds

Legal Adviser

Mr. Hsuan-Tsui Liu

Assistant Secretaries

Mr. Mohammed Ali Aghaasi

Mr. Arthur Campbell

Press Officer

Mr. William F. Clark

Interpreter and Documents Officer

Mr. Sylvain Lourie

Administrative and Financial Officer

Dr. Slavomir F. Brzak

Photographer

Mr. Alfred Fox

Secretary-Stenographers

Miss Louise Crawford

Miss Marie Ellington
 Miss Cecile J. Lefort
 Mrs. Muriel Hanna Lewis
 Miss Pauline Perron

(c) Activities of the Commission

Groups and Subsidiary Bodies

In pursuance of its task, the Commission established the following groups and subsidiary bodies :

- (i) On 16 July 1948, a group composed of Mr. Lozano (Colombia), Vice-Chairman, and Mr. Adams (United States of America), was sent to Karachi to engage in preliminary discussions with the Pakistan Government on the possibilities of a cease-fire agreement. The group returned to New Delhi and reported to the Commission on 19 July, (S/AC. 12/21 and S/AC./ 12/22).
- (ii) On 14 August 1948, the Commission, sitting in Karachi, divided into two groups in order to submit simultaneously to the two Dominions the Commission's proposal of 13 August 1948. Mr. Lozano, Chairman, with Mr. Siri (Argentina) and Mr. Oakes (United States of America) remained in Karachi (S/AC. 12/40 and S/AC. 12/41). Mr. Korbel (Czechoslovakia), Vice-Chairman, accompanied by Mr. Huddle (United States of America), Mr. E. Graeffe (Belgium), Mr. Leguizamon (Argentina) and Mr. Samper (Colombia) proceeded to New Delhi (S/AC.12/45, and S/AC. 12/46). On 20 August, the group which had remained in Karachi rejoined the rest of the Commission in New Delhi.
- (iii) On 2 September 1948, the Commission, sitting in Karachi, received a letter from the Prime Minister of India asking when the resolution of 13 August and related documents could be made public. The reply to the Indian Government on 4 September explained the situation and it was decided that Mr.

E. Graeffe should go to New Delhi and offer the required elucidations to the Government of India.

- (iv) On 10 September, the Commission decided to divide into two groups: one under the chairmanship of Mr. Huddle, accompanied by Major Smith (United States of America) with Mr. E. Graeffe and his alternate, Mr. H. Graeffe (Belgium), went to Rawalpindi to study the situation on the western section of the front in Kashmir; the other group under the direction of the Vice-Chairman, Mr. Siri, with Mr. Lozano and Mr. Korbel proceeded to Srinagar. On 18 September, the groups reunited in Srinagar.
- (v) Under the chairmanship of Mr. Lozano, a Military Affairs Sub-Commission was created on 14 July. It drafted a military questionnaire to be presented to the Government of India. In this connexion, a Mission consisting of Mr. H. Graeffe, Chairman, and Major Smith was sent to report on the situation on the eastern side of the front in Kashmir. Subsequently this Mission prepared a questionnaire which was presented to the Pakistani military authorities. The Mission then visited and reported on the situation on the western section of the front in Kashmir.
- (vi) An investigating sub-committee composed of Mr. Leguizamon, Chairman, Mr. H. Graeffe, Mr. Samper and Mr. Adams was sent to Srinagar on 31 August to study and report on the general background of the economic and political situation prevailing in the State of Jammu and Kashmir.

All these groups and subsidiary bodies were accompanied by members of the Secretariat.

D. Proceedings of the Commission

The first normal meeting of the Commission was held in Geneva on 16 June. The representative of the United States of America was elected temporary Chairman pending the

adoption of rules of procedure. The Commission considered the letters of 9 June 1948 from the President of the Security Council to the Commission (S/AC.12/1/Corr.1) and to the Prime Minister of India (S/AC.12/2) on the subject raised in a letter dated 5 June 1948 (S/825) from the representative of India to the President of the Security Council. The next three meetings were devoted to the discussion of rules of procedure, which were approved at the 4th meeting on 18 June and amended at the 11th meeting on 3 July (S/AC.12/4/Rev.1).

Rules of Procedure

The Commission agreed on the principle of rotation of chairmanship, the Chairman to hold office for a period of three weeks and to be succeeded by the Vice-Chairman. The chairmanship was to be assumed by the delegations in English alphabetical order. The election of the Rapporteur was postponed to a later date.

It was agreed that decisions in the Commission should be taken by a majority of not less than three concurring votes of members present and voting.

It was also agreed that the official Press *communiqués* should be previously approved by the Chairman and that Press releases and verbal briefings might be issued by the Secretariat unless decided otherwise by the Chairman.

Proceedings in Geneva

Altogether, eleven formal meetings were held in Geneva. Five of these were mainly devoted to correspondence with the Governments of India and Pakistan regarding the purposes and plans of the Commission.

The Commission on 22 June answered (S/AC.12/10) the questions of the Prime Minister of India (S/825) regarding the point or points on which it wished to confer. This answer elicited further questions from the Government of India (S/AC.12/13), to which a reply was made on 1 July (S/AC.12/16). The Commission felt that it should phrase its reply to the Prime Minister in terms as general as possible in order to

avoid any controversy which might jeopardize its departure for the sub-continent. After considering the different aspects involved in the communication of the Prime Minister, the Commission decided that it would be unwise to commit itself in advance on the scope of its investigations but that, on the other hand, there should be no doubt as to its objectives and competence. In the reply it was clearly stated that, while having as its principal task the situation in the State of Jammu and Kashmir, the Commission had reserved its decision with regard to further dispositions.

Both Governments were informed of the procedure the Commission intended to follow in initiating its work and were invited to appoint liaison officers.

A decision was taken regarding the name to be adopted by the Commission. Various terms had been used both in official correspondence and in resolutions of the Security Council as well as in the letters of credence of the delegations. The use of *Commission of Mediation...Commission of Good offices... Kashmir Commission.....and Commission on the India and Pakistan Question...* was considered. In the light of the terms of reference and particularly of the resolution of 3 June, which instructed the Commission "to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21 April", i.e., the dispute over the State of Jammu and Kashmir; and, second, "to study and report.....when it considers it appropriate on the matters raised in the letter of the Foreign Minister of Pakistan", it was though preferable to adopt a name which, although less precise, would cover the entire field of its work. A motion therefore was approved in favour of the name *United*

Nations Commission for India and Pakistan.

The remainder of the time in Geneva was occupied with administrative arrangements for travelling to the Indian sub-continent. It was decided that the Commission, while on the sub-continent, should take up its duties both in New Delhi and Karachi, with the first formal sessions in New Delhi. It was also agreed that a brief stop should be made in Karachi to

enable the Commission to pay its respects to the Government of Pakistan. An advance party, consisting of two members of the Secretariat, was dispatched on 25 June to arrange accommodations and office facilities in Karachi and New Delhi.

Proceedings on the sub-continent

The Commission stopped in Karachi from 7 to 9 July. The principal representatives were received informally by the Minister of Foreign Affairs and Commonwealth Relations, Sir Mohammed Zafullah Khan. He reviewed at length, and along the lines of the expositions made before the Security Council, the general background of the problem and the broader issues involved in the dispute between India and Pakistan. In the course of this interview, the Foreign Minister informed the members of the Commission that the Pakistan Army had at the time three brigades of regular troops in Kashmir, and that troops had been sent into the State during the first half of May. Sir Mohammed Zafullah Khan stated that this action had been taken as a result of the spring offensive by the Indian Army.

Also while in Karachi, the Commission received a letter from the "Azad Kashmir Government" setting forth its views in regard to the conditions with which it would be willing to comply in the implementation of a plebiscite, inviting the Commission to visit Azad Kashmir, and requesting that it be given an opportunity to present its case as a party to any settlement in one situation (S/AC.12/Info.3).

At the 12th meeting, held in New Delhi on Tuesday, 13 July, it was agreed that the Commission's work would be facilitated if its formal proceedings were not public and were supplemented by individual conversations in private with representatives of the parties concerned.

On the afternoon of the same day, the representatives of India, Sir Girja Shanker Bajpai, Secretary-General of the External Affairs Ministry, and Mr. M. K. Vellodi, liaison officer to the Commission, attended the 13th meeting. Sir Girja Shanker Bajpai briefly set forth the views of the Government of India and stated that, irrespective of the differences

between India and the Security Council, the presence of the Commission was highly regarded by his Government. He also clarified the reasons, given in the Security Council, for the dispatch of Indian troops to Kashmir (S/AC.12/Info.2).

From the time of their arrival in New Delhi, and throughout their stay there, all the representatives on the Commission had frequent personal discussions with members of the Indian Cabinet and with responsible officials concerning the possibilities which might be examined.

At the 14th meeting, it was agreed that the question of an immediate cease-fire should be explored and that the Government of India should be asked for its observations regarding the ways and means by which such a cease-fire might be brought about.

A resolution (S/AC.12/17) in the spirit of the Security Council's resolution of 17 January 1948, and designed to enlist the co-operation of the two Governments in promoting a suitable atmosphere for cessation of hostilities, was passed at the 15th meeting. It was conveyed to the representatives of India, who were present during the latter part of the meeting, and dispatched to the Government of Pakistan through the High Commissioner in New Delhi. Reassuring replies were received from both Governments (S/AC.12/18 and S/AC.12/19).

During the course of the 15th meeting, the question of a possible cease-fire was raised formally with Sir Girja Shanker Bajpai, who undertook to consult his Government on its views and conditions. It was stated by Mr. E. Graeffe, Chairman, that the broad policy of the Commission was one of mediation and that its immediate objective was to bring about a cessation of hostilities rather than to deal with specific provisions contained in resolutions of the Security Council. A sub-commission to study matters related to the cease-fire was established.

Having thus initiated inquiries concerning the views of the Government of India, the Commission decided to send a party to Karachi forthwith to discuss the question of a cease-fire with the Government of Pakistan. At the 17th meeting, extensive military information was presented by the Commander-in-Chief of the Indian Army, members of his staff, and various general officers who had been in command in Kashmir.

The sub-commission established at the 15th meeting was named the Military Affairs Sub-Commission and was requested to prepare further questions of a military character which might be presented to the Government of India in writing.

On 17 July, a Mission comprising Mr. Lozano, Vice-Chairman, and Mr. Adams together with three members of the Secretariat, proceed to Karachi furnished with instructions. The Mission had two conversations with Sir Mohammed Zafrullah Khan and Mr. Mohammed Ali, the Secretary-General of the Government of Pakistan. In the first meeting, held on 17 July, the Minister for Foreign Affairs expressed regret that the Commission had not formulated concrete proposals and hoped that it would not merely make recommendations, but would phrase its decisions in terms of directives. He offered to ascertain his Government's views upon a cease-fire.

At the second meeting, held on 18 July, Sir Mohammed Zafrullah Khan set forth three minimum considerations to be taken into account if cessation of hostilities was to be brought about: (1) that the Indian troops should be withdrawn from the State; (2) that provisions should be made for the maintenance of law and order and the protection of the Muslim population following the withdrawal of Indian troops; and (3) that the views of the "Azad Kashmir Government" should be taken into due consideration. The issue mentioned under (2) above, and evolving from the withdrawal of Indian troops, could, in the Foreign Minister's opinion, be settled by the introduction of international forces; a strong action to this effect on the part of the Commission could solve the difficulty. The importance of such forces would be enhanced by the simultaneous withdrawal of the Pakistani forces and volunteers, the necessity for which he also admitted. As for the views of the Azad Kashmir people, the Foreign Minister's intention was not to induce the Commission into recognition of the so-called Azad Kashmir Government, but he felt that the letter's approval, whether expressed directly to the Commission by their representatives or through the medium of the Government of Pakistan, might be of decisive importance.

Sir Mohammed Zafrullah Khan stated that three main reasons had motivated the entry of Pakistan troops into

Kashmir : protection of the territory of Pakistan from possible aggression by Indian forces; prevention of a *fait accompli* in Kashmir by the Government of India; and prevention of the influx of refugees into Pakistan.

Reports on these two discussions were presented, on the return of the Mission to New Delhi, at the 18th meeting on 19 July.

At the 19th meeting, on 20 July, a confidential cable was drafted and dispatched informing the Security Council of the presence of Pakistani troops in Kashmir. The Commission adopted a resolution requesting the Secretary-General of the United Nations to appoint a military adviser (S/AC.12/23). Consideration was given to a draft questionnaire presented by the Military Affairs Sub-Commission, which was approved at the following meeting. It was agreed that the Government of Pakistan should be requested to send a special representative to New Delhi to place before the Commission that Government's official views on matters relating to a cease-fire.

At the 21st meeting, on 22 July, the Commission decided to proceed to Karachi to consult with the Government of Pakistan. It was also decided to send a military mission to make a survey of the situation in Jammu and Kashmir.

At the 22nd meetings, Mr. Mohammed Ali Secretary-General of the Government of Pakistan, who had come to New Delhi at the request of the Commission accompanied by Mr. Mohammed Ayub, liaison officer recapitulated the views which had been given earlier by Sir Mohammed Zafrullah Khan in informal discussions with Mr. Lozano, and confirmed the minimum conditions of his Government with respect to an immediate cease-fire.

Mr. Mohammed Ali again stressed that his Government had hoped that the Commission would make concrete proposals in regard to a cease-fire. He expressed the view that a cessation of fighting would be possible if the conditions for a plebiscite were guaranteed. The extreme solution, he said, would be an unconditional cease-fire under the terms of which both sides would stop fighting and stay where they were pending further arrangements. However, Mr. Mohammad Ali added that the Government of Pakistan considered that even

for an interim cease-fire agreement (before the establishment of the conditions for a plebiscite) the Indian Army would have to be withdrawn from Muslim majority areas.

The Commission used the last few days in July, before its departure for Karachi, primarily for informal meetings with the Prime Minister and Minister for External Affairs, Pandit Nehru, and other representatives of the Government of India, in order to ascertain the views of their Government on the question of a cease-fire. During these conversations, held mainly with the then Chairman, Mr. E. Graeffe, the following principal points were submitted by the representatives of the Indian Government. (1) The regular Pakistani forces should be withdrawn from the State of Jammu and Kashmir; (2) Indian forces should remain along fixed lines and occupy certain advanced strategic position; and (3) the evacuated territories situated outside of the fixed line should be provisionally administered by existing local authorities, or, if necessary, by local authorities to be designated by the Commission, and should be supervised by observers of the Commission, but remain under the sovereignty of the State of Jammu and Kashmir until the final settlement of the dispute between India and Pakistan.

Newspaper and radio reports emanating from Kashmir indicated a noteworthy increase in fighting. Confirmation of these reports was received from Sir Girja Shanker Bajpai and Mr. M. K. Vellodi, who appeared at the meeting held on 29 July.

The Commission proceeded to Karachi on 31 July to enter into discussion with the Government of Pakistan. At an informal meeting held on 1 August in the residence of the Foreign Minister, Sir A. Dundas, the Governor of the North-west Frontier Province, reviewed in broad outline the social and economic problems of the tribesmen over a period of more than 150 years, and the policy which the former Governments of British India had pursued and the Government of Pakistan was pursuing in order to prevent the incursion of tribesmen into their territory.

He claimed that incursions of the tribesmen during the

past year had assumed the character of a religious crusade, animated by a desire for vengeance due to the communal disturbances that had taken place in the East Punjab, and the oppression of the Muslims by the Dogra dynasty in the State of Jammu and Kashmir. The Governor added that the movement of tribesmen into Kashmir had in fact to be canalized through his province in order to avoid the serious risk of outright war within the territory of Pakistan. Further, he said that tribesmen obtained petrol from local sources in Pakistan and made use of railway and local motor transport. Mr. Mohammad Ali added that denial of this petrol would have amounted to an economic blockade and might have implied grave consequences for the Government of Pakistan.

During its first week in Karachi, the Commission held six formal meetings, all of which were designed to get an exact view of the situation and of the Pakistan Government's attitude toward the possibility of a cease-fire. First publicity concerning the presence of Pakistan troops in Kashmir appeared in Pakistan papers, having its source in the *Civil and Military Gazette* of 31 July 1948, a paper published in Lahore.

On 4 August, Sir Mohammed Zafrullah Khan made an extensive statement on the political legal economic, and strategic aspects of the dispute. In his analysis, the Foreign Minister made frequent references to the Junagadh case and the problem of genocide. He indicated, however, that it was not his intention to go into these matters at present, but he touched on them by way of illustration.

The Commission asked the Foreign Minister a number of questions, which he answered first orally and then in writing. The following is a resume of the reply of Sir Mohammed Zafrullah Khan :

- (i) Pakistan had not informed the Security Council of the presence of its troops in Kashmir because, by the time they had been sent into the State, the question had been entrusted to the Commission, whose early departure for the sub-continent was expected. The matter had been put before the Commission immediately after its arrival in Karachi. In the view of the Foreign Minister, the presence of

Pakistani troops in Kashmir did not raise the question of international obligations since Pakistan had never accepted any with regard to non-interference in Kashmir.

- (ii) Referring to the legal aspects of the case, Sir Mohammed Zafrullah Khan stated that it had been agreed between India and Pakistan that, in instances where the ruler of the State did not belong to the same community as the people of the State and the ruler performed the act of accession, that act had to be finalized by a free and impartial plebiscite. He considered the accession of the State of Jammu and Kashmir as clearly invalid because the Maharajah had made a choice contrary to the known wishes of the people. The Foreign Minister observed that, if the principle of plebiscite was applicable in Junagadh, it also should apply to Kashmir.
- (iii) Sir Mohammed Zafrullah Khan confirmed that petrol was obtained by the tribesmen from local sources, repeating the argument that any attempt to stop the petrol supply would have entailed grave consequences for Pakistan.
- (iv) The Minister for Foreign Affairs dwelt at length on economic and strategic considerations. He argued that India, if it had control over Jammu and Kashmir, would be in a position to divert all five rivers of the Punjab, i.e., the Chenab, Jhelum, Beas, Sutlej and Ravi, the last three being already under Indian control, and thus could reduce to a desert one-third of the irrigated areas of West Punjab; nevertheless, he stated that Pakistan would abide by the results of a plebiscite were it to favour accession to India.

He pointed out that, if the Radcliffe Award had followed the terms of reference under which the Boundary Commission had operated and included all Muslim majority areas in West Punjab, the Pakistan boundary would have been much further to the east. In this case, India would have had no direct access to Kashmir.

During the 29th meeting, held on 5 August, the Commission discussed the Foreign Minister's statement and agreed that it should avoid any action which might be interpreted as signifying *de facto* or *de jure* recognition of the "Azad Kashmir Government". The Commission also considered the possibilities of a plebiscite but agreed that it would be impracticable as yet to make any definite proposal. At this meeting, the principles which underlay a cease-fire proposal were also discussed.

At the 30th meeting, on 6 August, the Commission considered a telegram received from the Government of Pakistan protesting against the speech delivered by Prime Minister Nehru on 25 July in Madras and asking what measures were contemplated by the Commission. It felt that, in view of the presence of Pakistani troops in Kashmir, any representation to the Government of India on the speech made by Prime Minister Nehru would be ill-advised and, therefore, receipt of the telegram was acknowledged without comment. The Commission exchanged views concerning alternatives to a plebiscite, keeping in mind that the study of any such alternative could not be seriously undertaken without the consent of the Governments of India and Pakistan.

The Military Mission, on 6 August, presented its report on the visit to the eastern sections of the front in Kashmir. The Military Mission had left New Delhi on 27 July and had returned to Karachi on 5 August. The major conclusion of the report was that, if the two Governments concurred, the military authorities, under the auspices of the Commission, should be able to work out a cease-fire agreement without great difficulty.

At its 32nd meeting, on 9 August, the Commission heard the representatives of the Military High Command of Pakistan. The Commander-in-Chief gave an account of the tactical situation on the Kashmir front. He corroborated declarations made to the Commission by the Indian High Command that, from the military point of view, there would be no difficulties in stopping the fighting if the provisions were fair to both sides. He submitted a plan for a cease-fire in which he

stressed the need for military observers and suggested a minimum of fourteen United Nations observer teams. He felt sure that both the Indian and Pakistan armies would co-operate materially in providing the observers with the necessary equipment.

On 10 August, the Commission undertook to draft a cease-fire proposal. The study of this proposal was the main subject-matter of the next six meetings.

At the 39th meeting, on the morning of 13 August, the Commission was informed that the Foreign Minister of Pakistan desired to be received. A meeting was called for the afternoon of the same day, on which Sir Mohammed Zafrullah Khan made a statement in which he brought up, among others, the following points : (1) The uncertainty of the Pakistan Government concerning the way in which the Commission interpreted its terms of reference; (2) the legal aspects of the problems of accession and plebiscite; and (3) possibilities for a cease-fire agreement.

At the close of the 40th meeting, the Commission unanimously adopted the following resolution :

[Resolution Adopted by the Commission at its 40th meeting, 13 August 1948]

The United Nations Commission for India and Pakistan,

Having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation.

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal :

PART I

Cease-fire order

The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals *forces under their control* shall be considered to include all forces, organized and unorganized, fighting or participating in hostilities on their respective sides.)

The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

In its discretion and as the Commission may find practicable, the Commission will appoint military observers who under the authority of the Commission and with the co-operation of both Commands, will supervise the observance of the cease-fire order.

The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce agreement

Simultaneously with the acceptance of the proposal for

the immediate cessation of hostilities as outlined in parts I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission.

A

As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council the Government of Pakistan agrees to withdraw its troops from that State.

The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting.

Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.

B

When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its

forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C

Upon signature, the full text of the truce agreement or a *Communiqué* containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

On 14 August at 6 p.m. the resolution was presented to the Governments of India and Pakistan. Mr. Lozano, Chairman, handed it to Sir Mohammed Zafrullah Khan in Karachi, and Mr. Korbel, Vice-Chairman, to Prime Minister Pandit Jawaharlal Nehru in New Delhi.

The two groups of the Commission remained separated for about a week awaiting the replies of the respective Governments. During a few meetings held between the Commission and Prime Minister Nehru and Sir Girja S. Bajpai, views were exchanged on a number of points made by the Indian Government (S/AC.12/46) as follows :

- (i) The lines fixed for the forces at the moment of the cease-fire should be worked out as precisely as possible.
- (ii) No legality should be accorded to the presence of Pakastani troops by acceptance of the proposition that the cease-fire would be effective along these fixed lines.
- (iii) The sovereignty of the State Jammu and Kashmir should not be affected.
- (iv) The lines would run close to the Pakistani frontier and thus, to avoid incursions of Pakistani regulars or the tribesmen, India would need a number of strategic points in the territories evacuated by its troops.
- (v) India should retain such strength of forces in Kashmir as to guarantee defence and maintenance of law and order and the protection of the territory against external attack.
- (vi) Pakistan should not participate in the organization and conduct of the plebiscite.

The Commission defined its position with regard to the above points, on the basis of which the Prime Minister signified the acceptance of the resolution in a letter dated 20 August to Mr. Korbelt, Chairman of the Commission. The letter appears below.

[Letter dated 20 August 1948 from the Prime Minister of the Government of India to the Chairman of the Commission]

On 17 August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposals.

During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the regular Pakistan Army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion. Indeed, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on 17 January 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan armies into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

Since our meeting of 18 August, we have given the

Commission's resolution our most earnest thought. There are many parts of it which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognize, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency :

That paragraph A, 3 of part II of the resolution should not be interpreted, or applied in practice, so as

- (a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;
- (b) To afford any recognition of the so-called Azad Kashmir Government; or
- (c) To enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor.

Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

If I understood you correctly, A, 3 of part II of the

resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3 (1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3 (2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

Finally, you agreed that part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace and thus to uphold the principles and the prestige of the United Nations, have decided to accept the resolution.

(Signed) Jawaharlal Nehru
Prime Minister, India

At the 43rd meeting, the Commission discussed a reply to this communication. The reply to the Prime Minister of India was dated 25 August, and reads as follows :

"I have the honour to acknowledge the receipt of your communication dated 20 August 1948 regarding the terms of the resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on 14 August 1948.

"The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1)

- (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connexion, the term *evacuated territory* refers to

those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

"The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken.

*(Signed) "Josef Korbel
Chairman"*

The Prime Minister of India submitted another letter, dated 20 August, the contents of which according to the statement of Sir Girja S. Bajpai, were not to be considered as a condition to the acceptance of the Commission's resolution by the Government of India. The text of the letter follows :

"You will recall that in our interview with the Commission on 17 August, I dealt at some length with the position of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north. The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistani troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that, after Pakistani troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit.) We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

*(Signed) "Jawaharlal Nehru
Prime Minister, India"*

The Commission made the following reply, dated 25 August :

"I have the honour to acknowledge receipt of your letter of 20 August 1948 relating to the sparsely populated and mountainous region of the State of Jammu and Kashmir in the north.

"The Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of the resolution.

(Signed) "Josef Korbel
Chairman"

On 20 August the group of the Commission that had remained in Karachi returned to New Delhi. The Chairman reported on his conversation with the Foreign Minister of Pakistan and handed to the Commission the latter's memorandum dated 19 August 1948, containing his Government's views on the resolution of 13 August (appendix to S/AC.12/44).

In the memorandum dated 19 August 1948, the Minister for Foreign Affairs of Pakistan analysed the resolution and requested the Commission to furnish his Government with clarifications.

The Pakistan Government's memorandum stressed mainly the following points :

- (i) That a supervision of the implementation of the cease-fire and truce agreement by neutral military observers be established.
- (ii) Unless India accepted the conditions for a free and impartial plebiscite, cessation of fighting could not be secured.
- (iii) That the withdrawal of tribesmen must be conditioned by the withdrawal of Sikhs and members of the Rashtriya Swayam Sewak Sangh to ensure the security of the Muslim population.
- (iv) That the whole State of Jammu Kashmir and not

- only the Azad Kashmir-controlled area should be under the surveillance of the Commission.
- (v) That the presence of Pakistani troops was in fact not a material change in the situation, since India had launched an offensive before that, and by so doing had caused the material change in the situation.
 - (vi) That maintenance of law and order should be provided.
 - (vii) That the presence of Pakistani troops was welcome in the Muslim areas, whereas non-Muslim troops were objected to by the population of these areas.

The Pakistan Government in the memorandum presumed that the object of part III of the resolution was to secure a free and impartial plebiscite to decide whether the State of Jammu and Kashmir was to accede to India or Pakistan.

At the 42nd meeting, on 21 August, a drafting committee was appointed to prepare a reply to the above memorandum. The answer (S/AC.12/55) was sent to the Government of Pakistan on 27 August.

At the same meeting the Military Mission, having just returned from its tour of the western section of the front, presented its report. The Mission was of the opinion that, once agreement had been reached on the political level, the military aspects of a cease-fire would offer little difficulty.

At its meeting of 26 August, the Commission decided to send a sub-committee to Srinagar to conduct a survey of the general economic and political background of the State of Jammu and Kashmir.

On 28 August, the Commission left for Karachi, with the exception of those members of the delegations and Secretariat who were scheduled to leave on the 31st for Srinagar.

At its 53rd meeting, the Commission studied a request from Sir Mohammed Zafrullah Khan for further explanations of its proposals. The Commission's reply, dated 3 September 1948, defined *evacuated territory* as that territory being currently under the effective control of the Pakistan High

Command, and repeated its oral assurances to the effect that, in the implementation of part III, it would be guided by the terms of the Security Council's resolution of 21 April 1948 setting forth the conditions for a plebiscite, subject to such modifications as the Commission might determine with the approval of both Dominions. The full text of the letter (S/AC.12/58) to Sir Mohammed Zafrullah Khan appears below.

[Letter Dated 3 September 1948 from the Commission to the Minister for Foreign Affairs of Pakistan]

On 19 August 1948 you were kind enough to present to Minister A. Lozano, then Chairman of the United Nations Commission for India and Pakistan, a letter dated 19 August 1948 with a memorandum attached asking for clarification of a number of points in the United Nations Commission's resolution of 13 August 1948.

The points contained in the memorandum were answered by the Commission's letter dated 27 August 1948.

Moreover, during the two meetings which the Commission had with you on 31 August and 2 September, ample opportunity was given for further clarification of certain points of the resolution.

At your request the Commission is glad to offer you the following interpretation of points on which you asked for additional elucidation :

In connexion with paragraph A, 3 of part II of the resolution, the term *evacuated territory* refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command, it being understood that the population of these territories will have freedom of legitimate political activity.

The Commission reaffirms that, according to its resolution, United Nations neutral military observers will be posted on both sides of the cease-fire line with the object of ensuring that the conditions of the truce are adhered to. In case of a breach of any of these conditions, a report will be made to the Commission, and the Commission, on

being satisfied that action in respect of the report is necessary, will call upon the authorities in either area to take the desired action.

As regards paragraphs B, 1 and 2, of part II, the Commission, while recognizing the paramount need for security of the State of Jammu and Kashmir, confirms that the minimum strength required for the purpose of assisting the local authorities in the observance of law and order would be determined by the Commission and the Government of India. The Commission considers that it is free to hear the views of the Government of Pakistan on the subject.

As regards part III :

- (a) You are respectfully referred to paragraph 2 of the Commission's memorandum accompanying its letter dated 27 August, which clarifies the position of the Commission on this subject.
- (b) The Commission will be guided by the terms of the Security Council's resolution of 21 April 1948 setting forth the conditions for a plebiscite, subject to such modifications as the Commission might determine with the agreement of the Governments of Pakistan and India.

Regarding publication, the Commission has the honour to inform you that it will publish, after having received the answers of both Governments to its resolution, the full text of the resolution and the correspondence relevant to it as exchanged between the Commission and the two respective Governments.

(Signed) Josef Korbel
Chairman

Between 30 August and 4 September, the Commission or its individual members held a number of conversations with representatives of the Pakistan Government viz. the Prime Minister, the Minister for Foreign Affairs, and the Secretary-General. All of these conversations were intended to explain and amplify statements, and to induce them to accept the Commission's resolution. The situation was reviewed in detail

and the resolution of 13 August discussed point by point.

The prolonged discussions between the Commission and the Government of Pakistan after the acceptance of the resolution by the Government of India caused a certain degree of anxiety on the part of the latter, which was pressing for an answer and for publication of the text of the resolution and documents relevant to it. The urgency was stated to be caused by the forthcoming recess of the Parliament and by the necessity of informing the public. The matter was considered between the Government of India and the Commission and, as a result, India agreed to postpone for a few days the recess of the Parliament.

At one of the meetings, the Chairman requested the Foreign Minister of Pakistan to fix a date for reply, explaining that this was dictated by the fact that the Commission had to deal with two Governments and had to suit the time-tables of both, and besides, by the most important fact that fighting was still going on and human life was being lost.

The time was tentatively fixed and, consequently, Mr. E. Graeffe was asked by the Commission to go to New Delhi in order to give oral explanations regarding the delay in publication.

Mr. E. Graeffe's presence in New Delhi, which continued after Pakistan's reply to the resolution, resulted in a number of conversations with members of the Indian Cabinet, who stated that the admission by Pakistan of the presence of regular troops had changed the situation considerably. In their opinion, a cease-fire was, in these conditions, a difficult affair and the Commission should report to the Security Council. It was also mentioned that the clarifications of the resolution obtained from the Commission met with the entire satisfaction of the Government of India.

On 4 September, the Commission met informally the representatives of the Azad Movement, Chaudri Ghulam Abbas, Supreme Head, and Sardar Mohammad Ibrahim Khan, President. Mr. Abbas' main contention was that part III of the resolution should have been introduced as the first step, but he raised no objections to parts I and II of the

resolution. In his opinion, once the conditions for a plebiscite had been agreed upon, there would have been no difficulty in implementing a cease-fire agreement. Sardar Ibrahim stressed that the resolution did not guarantee India's complete acceptance of definite conditions for a plebiscite, the fairness and impartiality of which could be determined by the Commission. According to him, an unconditional cease-fire was not acceptable.

On 6 September at its 55th meeting, the Commission considered the reply of the same date from the Government of Pakistan to the Commission's resolution. The text follows :

[Letter Dated 6 September 1948 from the Minister for Foreign Affairs of Pakistan to the Commission]

The Government of Pakistan have had under serious and anxious consideration the proposals made by the Commission in its resolution of 13 August 1948, and the clarifications and elucidations of its provisions that the Commission has since furnished in the course of discussion and in writing. They are now in a position to transmit to the Commission their views on these proposals as clarified and elucidated by the Commission.

They desire to make it quite clear at the outset that these views are the views of the Government of Pakistan and are not as such in any sense binding upon the Azad Kashmir Government, nor do they in any manner reflect the views of the Azad Kashmir Government. They note that it is the intention of the Commission to hold discussions with Azad Kashmir representatives, as individuals, and they do not doubt that these representatives will convey to the Commission the views of their Government on the proposals of the Commission. The Government of Pakistan would at all times be prepared to lend their good offices to persuade the Azad Kashmir Government to accept the view of the proposals of the Commission which the Pakistan Government themselves take, but such acceptance must rest finally with the Azad Kashmir Government themselves. As has already been

explained to the Commission, political control over the Azad Kashmir forces vests in the Azad Kashmir Government, and it is the latter Government alone that has authority to issue a cease-fire order to those forces, and to conclude terms and conditions of a truce which would be binding upon those forces.

It must further be stressed that the struggle for the liberation of Kashmir was initiated by Azad Kashmir, now represented by the Azad Kashmir Government, and that Government is a necessary party to any settlement of the Kashmir question. Indeed, this view is implicit in the proposals of the Commission itself, inasmuch as these proposals postulate a course of co-operation between the Commission and the local authorities in several respects.

It is common ground that the question in dispute with reference to the State of Jammu and Kashmir is the accession of the State as a whole to Pakistan or India, and that this question is to be determined by the democratic method of a free and impartial plebiscite.

With regard to the conditions of the plebiscite, the Commission has explained that it will be guided by the terms of the Security Council resolution of 21 April 1948, setting forth the conditions for a plebiscite subject to such modifications as the Commission might determine with the agreement of the Governments of Pakistan and India. In interpreting the terms of the Security Council's resolution, the Commission will no doubt be guided by the explanations offered by the sponsors of the resolution during the course of the discussion of the resolution in the Security Council.

As a result of the clarifications and elucidations furnished by the Commission, the Government of Pakistan understand that the Commission's resolution of 13 August 1948 seeks to achieve the objectives outlined below :

First, a cease-fire order in accordance with the proposals set out in part I of the resolution, so that the fighting may be brought to an end.

Secondly, that the conditions of a truce, the period of which the Commission is anxious to reduce to a minimum, be

agreed upon in accordance with the proposals set out in part II of the Commission's resolution. These proposals contemplate the actual determination of the cease-fire line, and that synchronization of the withdrawal of the armed forces of the Governments of Pakistan and India shall be arranged between the High Commands of the two Governments and the Commission, and that all territory under the authority or control of the Pakistan High Command, including Gilgit and the areas under the control of Azad Kashmir, shall during the period of the truce continue to be administered by the authorities which are in *de facto* control of it at the time of the cease-fire, and that no civil or military officer of the Government of India or of the State Government shall enter into or exercise any authority over it. The Azad Kashmir forces shall remain intact, i.e. shall not be disarmed or disbanded. The surveillance contemplated by the Commission over the local authorities does not imply the exercise of control over or interference with the administration.

Thirdly, that this period be utilized towards restoring peaceful conditions throughout the territories of the State of Jammu and Kashmir, so that once that was achieved to a reasonable degree, the conditions for preparing and holding a free and impartial plebiscite could be put into effect forthwith. The Commission would also consider during this period, along with the representatives of the Government of India and the Government of Pakistan, any proposals suggesting additions to or modifications of the conditions set out in part B (paragraphs 6 to 15, both inclusive) of the Security Council's resolution of 21 April 1948.

Fourthly, that the Commission proceed to prepare and hold the plebiscite at the earliest possible date. As soon as this stage is reached, the conditions of a free and impartial plebiscite shall be put into operation and shall over-ride all arrangements in operation during the period of the truce which are inconsistent with those conditions.

The Government of Pakistan desire to stress that they are interested in and would be affected by the result of the plebiscite at least in an equal degree with the Government of India, and they assume that it will be the constant endeavour

of the Commission to bring about and promote conditions in and affecting the State of Jammu and Kashmir which would place the two Governments on a position of absolute equality and advantage *vis-a-vis* the plebiscite, and should leave no room for any feeling on the part of either Government and indeed of any section of the people of the State that any party or section was subject to any handicap or disadvantage, or enjoyed any position of privilege or advantage denied to any other.

In the view of the Pakistan Government, the presence of the armed forces of the Government of India in any part of the State would militate against the restoration of peaceful conditions and would also conflict with the establishment of conditions for a free and impartial plebiscite. This is a view that the Government of Pakistan intend to continue to urge upon the Commission for their acceptance.

The Commission will recall that the Security Council was firmly of the view that the only effective method of stopping fighting in Kashmir was to provide clear and adequate assurance to Azad Kashmir [forces] and to the tribesmen helping them that the structure of a settlement had been erected which would guarantee to the people of the State the free expression of their will in respect of the accession of the State of Jammu and Kashmir to Pakistan or India, and to this end the Security Council laid down a set of conditions in part B of its resolution of 21 April 1948. The considerations that led the Security Council to this view operate with even greater force today. Without these assurances, the Pakistan Government could not be expected successfully to persuade the tribesmen to withdraw from the State. It is therefore absolutely essential that, as part of the truce agreement, the acceptance of the Government of India should be secured to the minimum conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir shall accede to India or Pakistan as laid down in part B (paragraphs 6 to 15, both inclusive) of the Security Council's resolution of 21 April 1948, and explained by the sponsors of the resolution in the Security Council. In the view of the Government of Pakistan these conditions are susceptible of

Improvement, and the Commission would no doubt hold further discussions with both Governments for the purpose of securing their agreement to such additions and modifications as may be urged before the Commission or which the Commission may consider necessary.

The Government of Pakistan have not been informed of any clarifications and elucidations of the proposals contained in the Commission's resolution of 13 August 1948 that the Commission may have furnished to the Government of India. If no clarifications or elucidations have been furnished, no point in that behalf arises. If any clarifications or elucidations have been furnished by the Commission to the Government of India, it is necessary that they should be communicated to the Government of Pakistan and the latter's agreement to them secured. It is equally necessary that the clarifications and elucidations furnished by the Commission to the Government of Pakistan should be communicated to the Government of India and their acceptance of them secured. The Commission will recognize that it is of the utmost importance that any agreement between the two Governments should be arrived at on the clearest possible basis, so that there is left no possibility of any misunderstanding of any of the matters agreed upon. In other words, it is essential that the two Governments should agree simultaneously to the same thing and in the same sense.

Although there are several features in the Commission's proposals which from the point of view of the Pakistan Government are not satisfactory, nevertheless as a step towards the solution of the situation in the State of Jammu and Kashmir, and in the interest of furthering international peace and security, the Pakistan Government have authorized me to inform the Commission that :

Subject to the clarifications and elucidations furnished by the Commission to the Government of Pakistan being accepted by the Government of India, and the elucidations and clarifications, if any, furnished by the Commission to the Government of India being acceptable to the Government of Pakistan, and provided the Government of India accept the conditions laid down in part B (paragraphs 6 to 15, both

inclusive) of the Security Council's resolution of 21 April 1948, as explained by the sponsors of the resolution in the Security Council, for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan, the Government of Pakistan accept the proposals contained in the Commission's resolution of 13 August 1948, as clarified and elucidated to the Pakistan Government by the Commission.

*(Signed) Zafrullah Khan
Minister for Foreign Affairs
and Commonwealth Relations,
Government of Pakistan*

On 6 September, the Commission replied to the above letter as follows :

"I have the honour to acknowledge receipt of your letter of 6 September 1948, giving the response of your Government to the Commission's resolution of 13 August 1948.

"The Commission observes that your Government has found itself unable to accept without reservation the proposals of the Commission as contained in its resolution of 13 August 1948, the purpose of which is to obtain the agreement of the Government of Pakistan and the Government of India to effect a prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security.

"The Commission wishes me to inform you that it will consider the questions which you have raised in your letter at an early occasion. It is, however, desirous to stress that the authentic interpretation of its position is contained in its memorandum of 27 August 1948 and its letter of 3 September 1948, both addressed to Your Excellency.

*(Signed) "Josef Korbel
Chairman"*

A further letter, dated 6 September, was received by Mr. Korbel from Sir Mohammed Zafrullah Khan. The text of the letter reads as follows :

"I have the honour to acknowledge receipt of your letter of 6 September 1948 acknowledging receipt of my letter of the same date containing the views of the Government of Pakistan on the Commission's resolution of 13th August 1948.

I note the assurance of the Commission that it will consider at an early occasion the questions that have been raised in that letter.

Your letter goes on to stress that the authentic interpretation of the Commission's position is contained in its memorandum of 27 August 1948 and its letter of 3 September 1948, both addressed to me. Since your letter of 3 September does not contain a precise and full record of the clarifications and elucidations furnished by the Commission in the course of discussion in our meetings of 31 August and 2 September 1948, may I venture to inquire whether the Government of Pakistan in drawing up the statement of their views on the Commission's resolution of 13 August 1948 have or have not been justified in relying upon the clarifications, elucidations and assurances orally furnished by the Commission in the course of these discussions.

*(Signed) "Zafrullah Khan
Minister for Foreign Affairs
and Commonwealth Relations,
Government of Pakistan"*

The text of the resolution of 13 August and the correspondence between the two Governments and the Commission which related to the proposals contained therein were released on 6 September for publication in the morning Press on 7 September.

At its last meeting in Karachi, on 7 September, the Commission replied to the letter quoted in paragraph 99 and, explained that the oral information provided by the two members of the Commission did not differ either in meaning or spirit from the content of the Commission's memorandum of 27 August and letter of 3 September. The full text of the Commission's letter of 7 September (S/AC.12/62) to Sir Mohammed Zafrullah Khan follows :

"In answer to your letter to me of 6 September 1948, acknowledging receipt of my letter of the same date, the Commission wishes me to convey to you that in the many discussions between representatives of the Pakistan Government and the Commission, the oral information provided by the members of the Commission did not differ either in meaning or spirit from what was contained in the Commission's written memorandum of 27 August and its letter of 3 September 1948, or from the text of its resolution of 13 August last.

"The Commission observes in your first letter of 6 September, transmitting the views of your Government on the Commission's resolution that you have made assumption and expressed certain conclusions which do not accurately reflect the Commission's position or its oral explanations, and it reserves the privilege, therefore, of answering that communication in greater detail at a later date.

*(Signed) "Josef Korbel
Chairman"*

To the above letter the Foreign Minister of Pakistan on 7 September, replied to the Chairman of the Commission as follows :

I beg to acknowledge your letter of 7 September. I am sorry to note that in the Commission's opinion I have in my first letter of 6 September made assumptions and expressed certain conclusions which do not accurately reflect the Commission's position or its oral explanations. I shall, however, await the more detailed comments which the Commission proposes to make on my letter, and if I am convinced that any unwarranted assumptions or conclusions have found their way into my letter to which you refer, I shall be very glad to correct them. I shall be greatly helped in this connexion if you will kindly direct your Secretariat to expedite the dispatch of the draft minutes or draft summary record of our meetings with the Commission on 31 August and 2 September.

With regard to the first paragraph of your letter I would, at this stage, submit no more than that at the very least the oral information provided by the Commission in our

meetings raged over a much larger field than that covered by the Commission's letter of 3 September 1948.

(Signed) "Zafrullah Khan
Minister for Foreign Affairs and
Commonwealth Relations,
Government of Pakistan"

Having decided at its 56th meeting to leave Karachi, the Commission arrived in New Delhi on 9 September and was received by the Prime Minister Mr. Korbél, Chairman, remarked at the outset that the Commission was anxious to know whether the Government of India was inclined to continue negotiations in the light of conditions attached to the resolution by the Government of Pakistan. In particular the Commission wanted to find out whether the Government of India: (1) would reconsider its position towards an unconditional cease-fire; (2) would deem advisable to negotiate directly with the other Dominion and the Commission on the situation in Jammu and Kashmir; (3) would consider a supplement to the resolution regarding conditions of plebiscite in the State of Jammu and Kashmir.

The Prime Minister's answer was that (1) an unconditional cease-fire was impossible for his Government, to accept, as any further step could be undertaken solely after the withdrawal of Pakistani forces; (2) no direct negotiations seemed to him possible at the moment, since both Governments had been negotiating without any fruitful results for months on end, and as long as there was no further basis for a settlement, direct approach was not advisable; (3) he could not accept any supplement to the resolution, which had been submitted to him as acceptable only in its original presentation. Besides, he would not see any useful purpose in discussing conditions of plebiscite with fighting continuing.

At its 58th meeting on 10 September in New Delhi, the Commission, under the Chairmanship of Mr. Huddle, decided to divide into two groups, one to join the Mission already in Srinagar and the remainder of the Commission to go to Rawalpindi, and from there to investigate the situation in the

Azad Kashmir territory. It was also decided that the Commission would start preparation of its interim report. The representative of Colombia was unanimously elected as Rapporteur.

At its 59th meeting in New Delhi on 11 September 1948, the Commission adopted a resolution to the effect that the Commission should leave the Indian sub-continent for Geneva within ten days, there to finish its interim report to the Security Council. During the meeting, a drafting sub-committee was appointed to prepare a detailed explanatory letter which might clarify the views of the Commission regarding objections raised and reservations made by the Government of Pakistan to the resolution of 13 August 1948.

On 14 September a group headed by Mr. Huddle, Chairman, and consisting of Mr. E. Graeffe, Mr. H. Graeffe, Major Smith and two members of the Secretariat, left for Rawalpindi. The group visited a number of localities in Azad Kashmir territory and held conversations with the leading personalities of the Azad Movement. The group returned to Srinagar on 18 September and gave a detailed report to the Commission.

The investigating sub-committee informed the Commission of the type of material it had collected during its stay on the eastern side of the front in Kashmir. It was, however, not able to complete its study.

At the 62nd meeting held in Srinagar on 19 September the Commission approved the text of the reply to the letter dated 6 September from Sir Mohammed Zafrullah Khan. The text of the Commission's reply follows :

[Letter Dated 19 September 1948 from the Commission to the Pakistan Minister for Foreign Affairs]

The Commission has given careful consideration to your first letter of 6 September 1948 in which you have transmitted the views of your Government on its resolution of 13 August. Several of the points raised therein are covered by the terms of the resolution and by the elucidations offered to you in its communications of 27 August (S/AC.12/55), 3 September (S/CA.12/58), and 7 September (S/CA.12/62).

As regards the other points of your letter the Commission wishes to confirm its oral explanations, as follows :

- (a) With respect to point 2, the Commission was repeatedly informed by you and by representatives of the Pakistan Army that the Azad Kashmir forces were under the over-all control of the Pakistan High Command. In connexion with the political aspect of the question raised in points 2 and 3, the existence of the Azad Kashmir Movement has not been ignored by the Commission, consideration thereof appearing in part II, A, 3 of its resolution of 13 August.
- (b) As regards the last sentence of point 5, the Commission wishes to repeat that the individual explanations offered by the sponsors of the Security Council's do not form a part of that document and are not binding upon the Commission, but receive due consideration by the Commission in its deliberations.
- (c) Concerning point 6, the objectives the Commission seeks to achieve are clearly outlined in its resolution and are elucidated in the appendix to its letter of 27 August, and in its letter of 3 September. Moreover, the Commission agrees that it will be anxious to reduce the truce period to a minimum and that the resolution does not contemplate the disarmament or disbanding of Azad Kashmir forces.
- (d) The Commission considers that the questions raised in points 7, 8 and 9 of your letter are not pertinent at this stage, but relate instead to the agreement envisaged in part III of the resolution. As for the particular issue raised in point 9, the Commission stresses again its conviction that the objectives and terms of its resolution provide adequate incentives to obtain the co-operation of the Azad Kashmir forces and of the tribesmen in the implementation of the resolution through the good offices offered by the Pakistan Government.
- (e) As regards point 10, the text of the resolution and the correspondence relevant to it, as exchanged between

the Commission and the two respective Governments, have been published. The explanations offered by both Governments are in full harmony.

As regards the conclusions contained in point 11 of your letter, upon presentation of the resolution the Commission requested the Governments of Pakistan and India to consider and accept this document as a whole. It was intended that the details for the implementation of the resolution be discussed at common meetings between the representatives of both Governments and the Commission in subsequent stages, and following the cessation of hostilities. The Commission observes with regret that the Government of Pakistan has been unable to accept the resolution without attaching certain conditions beyond the compass of this resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission to bring about a peaceful and final settlement of the situation in the State of Jammu and Kashmir.

The Commission sincerely hopes that the Government of Pakistan may find it possible to reconsider their position and accept the proposal contained in the Commission's resolution of 13 August 1948, as clarified and elucidated in the present letter and the correspondence mentioned therein.

(Signed) *J. Klahr Huddle*
Chairman

The Commission, not wishing to leave the sub-continent without making a further appeal to the Governments of India and Pakistan, pending its return or future dispositions, adopted the following resolution on 19 September :

"The United Nations Commission for India and Pakistan."

"Having decided to leave for Europe to prepare an interim report to the Security Council on the present situation in the State of Jammu and Kashmir, hereby

"Resolves to appeal to the Governments of India and Pakistan to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement,

which both Governments have declared to be their most sincere and ardent desire."

E. Political Analysis

The approach of the Commission to the task entrusted to it by the Security Council's resolution of 21 April 1948 was initially based on the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir and on the reply and counter-complaints of the Government of Pakistan. Its main immediate endeavours were dedicated towards bringing about a cessation of hostilities with a view to establishing conditions favourable to a final and peaceful settlement of the situation.

As set fourth in the letter of 1 January 1948 (S/628), the Government of India placed its complaint against the Government of Pakistan under Article 35 of the Charter, which allows any Member to bring to the attention of the Security Council any situation the continuance of which is likely to endanger the maintenance of international peace and security. India alleged that such a situation existed between it and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining that Dominion on the north-west, were drawing from Pakistan for operations against the State of Jammu and Kashmir, which had acceded to India on 27 October 1947, and was part of India.

The Government of Pakistan in its communication of 15 January 1948 (S/646 and Corr. 1) denied that it was giving aid and assistance to the invaders, but conceded that a number of independent tribesmen and persons from Pakistan were helping as volunteers the "Kashmir Government" in its struggle for liberty. In the same communication and as a separate document, the Government of Pakistan brought to the attention of the Security Council, also under Article 35 of the Charter, the existence of other disputes and requested that appropriate measures be adopted for their settlement and the restoration of friendly relations between the two Governments.

The Security Council, having considered the statements made by the representatives of India and Pakistan, defined the

competence and terms of reference of the Commission in its resolution of 21 April 1948, and further directed the Commission in its resolution of 3 June 1948 to study and report when it considered appropriate on the matters raised in the letter of the Foreign Minister of Pakistan.

The Commission had reason to feel uncertain regarding the nature of the reception which would be accorded to it upon arrival in Karachi and New Delhi. Both India and Pakistan had in effect rejected the Security Council's Resolution of 21 April 1948. Pakistan had only under protest designated a member country of the Commission and had officially stated (S/735) that the Security Council's resolution was inadequate to secure the objectives set out in its preamble and was not acceptable to the Government of Pakistan.

The Government of India specifically stated, in a letter dated 5 June 1948 from its representative to the President of the Security Council, that "there can be no question of the Commission proceeding to implement the resolution on Kashmir until objections (viz. to provisions of the Security Council's resolution of 21 April 1948) raised by the Government of India had been satisfactory met". This letter further stated that if the Commission were to visit that country, the Government of India "would like to know in advance the point or points on which the Commission would wish to confer with them". (S/825).

The Commission therefore proceeded from Geneva to the Indian sub-continent without firm assurances that either Government would assist the Commission in the implementation of its terms of reference, under which it hoped to function. Moreover, the Commission had been informed before its arrival on the sub-continent that the general atmosphere was not altogether favourable to its work.

It was the purpose of the Commission to pursue its work in accordance with the directives given by the Security Council on the background of the situation as previously explained at length by the parties to the Council, the salient points of which were :

- (i) Religious disturbances increased in intensity and violence immediately before and directly after the

partition of British India. Mass movements of population took place throughout the sub-continent.

- (ii) Muslim tribesmen were inflamed by reports of the deaths and displacement of large numbers of Muslims in the course of the disturbances. The tribesmen, bent on avenging their co-religionists, swarmed from the mountains into the State of Jammu and Kashmir, penetrating as far as its southern borders on the east, entering the State in its south-western areas from the adjacent territory of Pakistan and reaching the outskirts of Srinagar.
- (iii) Nationals of Pakistan entered Jammu and Kashmir for the purpose of fighting.
- (iv) The accession of Jammu and Kashmir, the legality of which is disputed by Pakistan, was accepted by India on 27 October 1947. Immediately thereafter, the Indian Army advanced into the State with the purpose of expelling the tribesmen and restoring law and order. India declared that "as soon as law and order have been restored in Kashmir and her soil cleared of the invader" the question of the State should be settled by a reference to the people. (Letter dated 27 October 1947 from the Governor-General to the Maharajah of Jammu and Kashmir.)
- (v) The tribesmen were pushed back but the Indian forces, combined with the State forces of Jammu and Kashmir, were unable to expel all intruders or to establish authority throughout the State.

The Commission hoped, under its terms of reference, to induce the Government of Pakistan to exercise its influence on the tribesmen and the Pakistani nationals to withdraw from the State of Jammu and Kashmir. When that was accomplished, it intended to obtain a progressive withdrawal of Indian troops to the minimum strength required for the support of civil power in the maintenance of law and order, and, further, the agreement of the Government of India to a plebiscite along the lines indicated in the Security Council's resolution.

The Security Council never contemplated during its

debates that the Commission, though entrusted with a delicate and difficult task, should deal with a situation involving military action between two regular armies.

Another element, the significance of which had not been fully appreciated before the Commission's departure for the sub-continent, was the Azad Movement, which constitutes an organized political and military body, is assisted by the Pakistan High Command, and is engaged in active revolt against the existing Government. This Movement has co-operated since October 1947 with invading tribesmen and individual Pakistani nationals. The leader of the Azad Kashmir Movement, Chaudri Ghulam Abbas, is at the same time the head of the Muslim Conference. The Azad Kashmir Movement controls a considerable part of Jammu and Kashmir State, particularly the greater part of the districts of Poonch, Muzaffarabad and Mirpur. The population of the Azad-controlled area has been variously estimated at between one to two million people.

This situation imposed upon the Commission the additional task of not only obtaining the withdrawal of the tribesmen and Pakistani nationals, but also the cessation by the Azad forces of participation in the fighting.

The statement of the Foreign Minister of Pakistan to the effect that Pakistani troops had entered the territory of the State of Jammu and Kashmir, and later his reply to a Commission questionnaire that all forces fighting on the Azad side were "under the over-all command and tactical direction of the Pakistan Army", confronted the Commission with an unforeseen and entirely new situation.

According to the Security Council's resolution of 17 January, the Government of Pakistan was requested to inform the Security Council immediately of any material change in the situation. In a letter addressed to the Security Council, the Pakistan Government agreed to comply with this request. The Government of Pakistan had, however, not informed the Security Council about the presence of Pakistani troops in the State of Jammu and Kashmir. Sir Mohammed Zafrullah Khan explained that, since the Commission had been charged to deal with the problems related to the India-Pakistan question,

his Government thought that the information should instead be given to the Commission, but he had been unable to do this previously because of the delay in its arrival on the sub-continent.

According to the statement of Sir Mohammed Zafrullah Khan, the Pakistani troops entered Kashmir early in May 1948. The records of the Security Council show that the Commission was provided for but not fully constituted at that time. The Commission had its first meeting in Geneva on 15 June, but was informed of the presence of the Pakistani troops in the State of Jammu and Kashmir only on 8 July.

From the outset, the Commission found it of primary and major consequence to explore the possibilities for a cessation of hostilities before going into the study of the substance of matters relating to a final solution. It devoted many meetings to the investigation of the military aspects of the problem and to sounding the two Governments as to how the fighting between their regular forces might be brought to an end. The representative of the Government of India, Sir Girja Bajpai, in the two formal meetings with the Commission in New Delhi, characterized the situation as a state of "undeclared war". He warned the Commission that the "sands of time were running short". He added that if no action were taken soon to end the hostilities India might be forced to extend its own action, and that the question in reality was whether the issue was to be settled in peace or in war.

From the conversation between the various members of the Commission with the Prime Minister and other Indian representatives while in New Delhi, it became apparent that the Government of India held that the presence of Pakistani troops in Kashmir constituted an act of aggression against the Indian Union. The Government representatives insisted that these forces must be withdrawn before any negotiations could be initiated for the final solution of the problem.

On the other hand, the spokesman of the Pakistan Government declared that its forces would not be withdrawn unless the Indian forces were withdrawn simultaneously, in prearranged stages, and further that the proposals for a cease-

fire order should have the consideration and approval of the "Azad Kashmir Government". In this connexion, it was explained to the Minister for Foreign Affairs of Pakistan that to request formally the approval of the Azad Kashmir would constitute a *de facto* recognition of that "Government", which the Commission was not in a position to grant. The Foreign Minister of Pakistan appreciated that fact. Even his own Government had not granted legal recognition to the Azad "Government" in view of the implications which might ensue. The actual position, however, was that the Azad people, who were vitally interested in the situation, could not be overlooked.

Along the lines of the Security Council's resolution of 21 April, and on the basis of the situation as explained in previous paragraphs of the present report, the Commission considered that the Government of Pakistan should be asked, as a first step towards the final solution of the dispute, to withdraw its forces from the State of Jammu and Kashmir, with the understanding that, as the second step, the withdrawal of the bulk of the Indian troops would occur.

When the Commission was officially apprised of an element in the situation which had not been explicitly stated in its original terms of reference, it was forced to choose between two alternatives : either to inform the Security Council of this material change, requesting new instruction, or to proceed to exert its mediatory influence in search of ways and means to correct those conditions. The Commission, after thorough consideration of the implications involved in referring the case back to the Security Council, decided to use its good offices to endeavour to obtain the cessation of hostilities and to create a peaceful and friendly atmosphere deemed essential for a final settlement.

The Commission, as can be appreciated from the historical account of its proceedings, inquired extensively into the possibilities of instituting a cease-fire. It ascertained that the Government of Pakistan would be willing to accept a simple cease-fire. The Government of India, however, clearly indicated that it could not entertain any proposal which would permit the Pakistani forces to remain within the territory of

the State of Jammu and Kashmir. Finding that there was no common ground for obtaining agreement to an unconditional or simple ceasefire, the Commission drew up proposals which were calculated to satisfy both Governments.

In order to link the cease-fire to the preparation for a final settlement, which was the desire of Pakistan, and yet provide for the withdrawal of Pakistani forces and tribesmen, as India requested, the Commission proposed, as part II of its resolution of 13 August, a truce agreement based on principles which it deemed fair and equitable, the details of which were to be worked out immediately following the cease-fire order.

These principles were :

- (a) Withdrawal of the Pakistani forces from the State of Jammu and Kashmir.
- (b) Withdrawal of tribesmen and other Pakistani nationals not normally resident in Jammu and Kashmir, and who had entered the State for the purpose of fighting.

The above provisions were designed to satisfy India's demands.

Other principles were :

- (c) Temporary administration by local authorities (Azad Kashmir) of territory evacuated by Pakistan troops.
- (d) Withdrawal of the bulk of the Indian forces from Jammu and Kashmir.
- (e) Temporary retention of such minimum of the Indian forces as might be required for the maintenance of law and order.
- (f) Official assurances as to safeguarding of people, law and order, as well as all human and political rights.

These proposals were thought by the Commission to satisfy Pakistan's demands.

Finally, to complete its proposals, the Commission requested the two contending Governments to reaffirm their previously expressed desire that the people of Kashmir be permitted to determine their future political status, a principle which had been accepted by both India and Pakistan.

In general, the Commission considered that the principles of the truce agreement constituted a balance which could not but meet with the approval of both India and Pakistan, and which, upon acceptance and implementation, would promptly clear the way for both Governments to enter into active collaboration with the Commission in the study of terms for a fair and equitable plebiscite.

As a final endeavour to bring the two Governments into agreement on the principles whereby a cessation of hostilities might be implemented, the Commission, notwithstanding its stipulation that the resolution of 13 August be accepted as a whole, and stimulated by the strong desire to use all means within its power of persuasion to bring about cessation of fighting and a peaceful solution, decided to return to New Delhi once again to confer with the Prime Minister of India on the conditions attached by the Government of Pakistan to its acceptance of these principles.

The Prime Minister of India informed the Commission two days after it had placed these suggestions before him that he stood on his original premise that the Pakistani forces must be withdrawn from the State before the Government of India could consider any further steps. Regarding conditions for a free and impartial plebiscite, the Prime Minister reminded the Commission that his Government had reservations regarding paragraphs 6 to 15 of the Security Council's resolution of 21 April. A study of these conditions would require a long period of time and the Government of India could not be a party to such study with the Pakistani troops present in Kashmir and fighting going on.

He therefore maintained that, having accepted the Commission's resolution of 13 August, his Government could not now consider any supplement to that resolution.

It will be noted that matters relating to the plebiscite have not been dealt with in detail in this interim report of the Commission. The paramount question of cessation of hostilities occupied almost entirely the attention of the Commission throughout its ten weeks' stay on the sub-continent. Although the Commission endeavoured to assess the attitude of the Governments of India and Pakistan in this

respect, and although a sub-commission initiated a survey of conditions in the State of Jammu and Kashmir, the Commission could not enter into a detailed and comprehensive study of the practicability of a plebiscite from the political and administrative points of view because its resolution of 13 August had not been carried out.

However, the Commission feels that some general observations might be made in this connexion :

There has been from the beginning a difference in approach to the problem of a plebiscite on the part of India and on the part of Pakistan. India appealed to the Security Council and asked for its intervention to stop the incursions of tribesmen into the State of Jammu and Kashmir. Having this end in view, India's representatives at Lake Success, as well as those who participated in the conversations with the Commission at New Delhi, insisted that hostilities should cease as a preliminary step to arrangements for a future plebiscite.

Pakistan, however, viewed the problem in an entirely different light, making the acceptance of a plebiscite dependent upon the previous withdrawal of all outsiders, including the armed forces of the Indian Union, the restoration and rehabilitation of all Muslim residents of Jammu and Kashmir as on 15 August 1947, and the establishment of an impartial independent administration in which the people of that State were fully represented.

During the informal talks in New Delhi between the members of the Commission and the Prime Minister and other members of the Government of India, it was confirmed that the plebiscite scheme as envisaged by the resolution of 21 April still did not meet with their approval. The Prime Minister told the Chairman of the Commission that it would be impracticable to arrange for a plebiscite to be held during the next twelve months, the preparations for a plebiscite would take several months and the intervening winter would not permit any substantial work. He added that fighting was constantly going on in Kashmir and that the situation might deteriorate if not dealt with promptly.

The Secretary-General of the Government of Pakistan

Mr. Mohammad Ali, also expressed the view that it was impracticable to arrange for a plebiscite in 1948.

The Commission devoted part of its stay on the sub-continent to sounding the sentiments and views of the Jammu and Kashmir Government as well as of the Azad Kashmir Movement. According to views expressed in conversations held with Sheikh Abdullah, the Prime Minister of the State of Jammu and Kashmir, and with the leaders of the Azad Movement, arrangement for a plebiscite would require more than one year. Both parties independently based this opinion on the internal disruption caused by fighting and the time needed for repatriating hundreds of thousands of refugees.

Because of the difficulties connected with a plebiscite, the Commission did not lay down any conditions in part III of the resolution in order to facilitate the discussions between the Governments of India and Pakistan and the Commission for the settlement of the dispute. Although the Commission felt that conditions for a plebiscite might have been considered in accordance with the Security Council resolution of 21 April, the Commission wished to leave open the possibility for the consideration of alternative solutions mutually agreeable to both parties, with the provision that the will of the people should be assured.

The Commission is pursuing its work and will present in due time its report or reports to the Security Council on further developments.

(Signed) Ricardo J. Siri (Argentina)
Egbert Graeffe (Belgium)
Alfredo Lozano (Colombia)
Josef Korbel (Czechoslovakia)
J. Klahr Huddle (United States of America)

APPENDIX A

Chairmen of the Commission *(18 June to 30 September 1948)*

<i>Term</i>	<i>Member and representative</i>
18 June to 8 July	<i>Argentina</i> H. E. Minister Ricardo J. Siri

9 to 29 July	<i>Belgium</i> H. E. Egbert Graeffe
30 July to 19 Aug.	<i>Colombia</i> H. E. Minister Alfredo Lozano
20 Aug. to 9 Sept.	<i>Czechoslovakia</i> H. E. Ambassador Josef Korbel
10 to 30 Sept.	<i>United States of America</i> H. E. Ambassador J. Klahr Huddle

APPENDIX B

Calendar of the Activities of The Commission

(28 May to 25 September 1948)

May

- 28 Lake Success Informal meeting of representatives of members of the Commission

June

- 15 Geneva Informal meeting of the Commission
 16 Geneva 1st meeting
 17 Geneva 2nd and 3rd meetings
 18 Geneva 4th and 5th meetings
 21 Geneva 6th and 7th meetings
 22 Geneva 8th meeting
 24 Geneva 9th meeting
 25 Geneva Advance party leaves for Karachi and New Delhi
 29 Geneva 10th meeting

July

- 3 Geneva 11th meeting
 5-7 en route Geneva-Athens-Basra-Karachi
 8, 9 Karachi Informal meetings with Pakistan Foreign Minister
 10 Karachi Commission moves to New Delhi

- | | | |
|----|-----------|--|
| 13 | New Delhi | 12th and 13th meetings
(Indian liaison officers present) |
| 14 | New Delhi | 14th and 15th meetings
(Indian liaison officers present) |
| 15 | New Delhi | 16th meeting
1st meeting of Military Affairs Sub-Commission |
| 16 | New Delhi | 17th meeting
(Indian liaison officers and Commander-in-Chief present) |
| 17 | New Delhi | Vice-Chairman and party leave for Karachi |
| | Karachi | Vice-Chairman and party meet with Pakistan Foreign Minister |
| | New Delhi | 2nd meeting of Military Affairs Sub-Commission |
| 18 | Karachi | Vice-Chairman and party meet informally with Pakistan Foreign Minister
Party returns to New Delhi |
| 19 | New Delhi | 18th meeting |
| 20 | New Delhi | 19th meeting |
| 21 | New Delhi | 20th meeting
3rd meeting of Military Affairs Sub-Commission |
| 22 | New Delhi | 21st meeting |
| 23 | New Delhi | 22nd meeting
(Pakistan liaison officers present) |
| 24 | New Delhi | Visit to exhibit of captured equipment at GHQ and to HQ, Western Command |
| 26 | New Delhi | 23rd meeting |
| 27 | New Delhi | Military Mission leaves for Jammu |
| 28 | New Delhi | 24th meeting |
| | Jammu | Military Mission goes Naushera and Jhangar |
| 29 | New Delhi | 25th meeting |
| | Jammu | Military Mission at Naushera |
| 30 | Jammu | Military Mission visits Poonch |

August

- | | | |
|----|------------|--|
| 1 | New Delhi | Commission moves to Karachi |
| | Karachi | Meeting with Pakistan Foreign Minister and Governor of North-West Frontier Province |
| | Srinagar | Military Mission to Baramullal and Uri |
| 2 | Karachi | 26th meeting |
| 3 | Karachi | 27th meeting |
| | | Military Mission moves to New Delhi |
| 4 | Karachi | 28th meeting
(Pakistan Foreign Minister present) |
| 5 | Karachi | 29th meeting |
| | Karachi | Military Mission arrives |
| 6 | Karachi | 30th meeting |
| 7 | Karachi | 31st meeting |
| 9 | Karachi | 32nd and 33rd meetings
(Pakistan liaison officers and Commander-in-Chief present) |
| 10 | Karachi | 34th and 35th meetings |
| 11 | Karachi | 36th and 37th meetings |
| 12 | Karachi | 38th meeting |
| | | Military Mission goes to Rawalpindi and Abbottabad |
| 13 | Karachi | 39th and 40th meetings
(Pakistan Foreign Minister present) |
| | Rawalpindi | Military Mission to Muzzaffarabad and Chenari |
| 14 | Karachi | Vice-Chairman and party move to New Delhi |
| | Karachi | Chairman presents Commission's proposals to Pakistan Foreign Minister |
| | New Delhi | Vice-Chairman presents Commission's proposals to the Prime Minister of India |
| 15 | Rawalpindi | Military Mission to Muzzaffarabad and Tithwal |
| 16 | Rawalpindi | Informal meeting of Military Mission with Azad leaders |

- | | | |
|------------------|------------|---|
| 17 | Rawalpindi | Military Mission to Mirpur |
| 18 | New Delhi | Meeting of Vice-Chairman and party with Prime Minister of India |
| | | Military Mission returns from Rawalpindi |
| 19 | New Delhi | Conversation of Vice-Chairman with Prime Minister of India |
| 20 | Karachi | Chairman and party meet with Pakistan Foreign Minister |
| 21 | Karachi | Chairman and party move to New Delhi |
| | New Delhi | Conversation of Vice-Chairman with Secretary-General, External Affairs |
| | | 41st meeting |
| 22 | New Delhi | 42nd and 43rd meetings |
| 23 | New Delhi | 44th meeting |
| 24 | New Delhi | 45th 46th meetings |
| 25 | New Delhi | 47th meeting |
| 26 | New Delhi | 48th and 49th meetings |
| 27 | New Delhi | 50th meeting |
| 28 | New Delhi | 51st meeting |
| 29 | New Delhi | Commission, less Economic and Political Mission, moves to Karachi |
| | New Delhi | Conversation of Chairman, Economic and Political Mission with Secretary-General, External Affairs |
| 30 | New Delhi | Conversation of Chairman, Economic and Political Mission with Secretary-General, External Affairs |
| | New Delhi | Interview of Belgian alternate representative with Governor-General of India |
| 31 | New Delhi | Economic and Political Mission moves to Srinagar |
| | Karachi | Informal meeting of Commission with Pakistan Foreign Minister |
| <i>September</i> | | |
| 1 | Karachi | 52nd meeting |

- | | | |
|----|-----------|---|
| | Srinagar | Economic and Political Mission inter-views Prime Minister, Jammu and Kashmir |
| 2 | Karachi | Meeting of Commission with Pakistan Foreign Minister |
| | Karachi | Meeting of Commission with Prime Minister of Pakistan |
| | Srinagar | Economic and Political Mission to Gulmarg |
| 3 | Karachi | 53rd meeting |
| | Srinagar | Economic and Political Mission inter-views Ministers of Revenue, Supplies and Trades, and Finance |
| 4 | Karachi | Representative of Belgium moves to New Delhi |
| | Karachi | 54th meeting |
| | Karachi | Informal meeting with Azad leaders |
| | Srinagar | Economic and Political Mission to Baramulla, Sopore and Bandipura |
| | New Delhi | Informal conversation of representative of Belgium with Secretary-General, External Affairs |
| 6 | Karachi | 55th and 56th meetings of Commission |
| | New Delhi | Conversation of representative of Belgium with Secretary-General, External Affairs |
| | Srinagar | Economic and Political Mission to Anantnag and Pahalgam |
| 7 | Karachi | 57th meeting |
| 8 | New Delhi | Conversation of representative of Belgium with Secretary-General, External Affairs |
| | Karachi | Commission moves to New Delhi |
| 9 | New Delhi | Meeting of Commission with Prime Minister |
| | Srinagar | Economic and Political Mission interviews Minister of Development |
| 10 | New Delhi | 58th meeting |

- | | | |
|----|-------------------------------------|--|
| 11 | New Delhi | Commission meets with Prime Minister of India |
| | | 59th meeting |
| 12 | New Delhi | Commission less the Chairman and representative of Belgium, moves to Srinagar |
| 14 | New Delhi | Chairman and party move to Rawalpindi |
| 15 | Rawalpindi | Chairman and party to Mirpur, meeting with Azad leaders |
| 16 | Rawalpindi
Srinagar | Chairman and party to Attack, etc.
Economic and Political Mission moves to Jammu |
| 17 | Jammu | Economic and Political Mission visits Akhmer |
| 18 | Rawalpindi

Srinagar
Jammu | Chairman and party rejoin Commission in Srinagar
60th meeting
Economic and Political Mission returns to Srinagar |
| 19 | Srinagar | 61st and 62nd meetings |
| 21 | Srinagar
New Delhi | Commission leaves for Geneva
Conversation of Commission with Prime Minister of India |
| 22 | Karachi | Conversation of Chairman with Prime Minister of Pakistan |
| 25 | Geneva | Commission arrives |

LIST OF ANNEXURES

1. Resolution adopted by the Security Council at its 230th meeting, 20 January 1948 (S/654)
2. Resolution adopted by the Security Council at its 286th meeting, 21 April 1948, concerning the India-Pakistan question (draft resolution submitted jointly by Belgium, Canada, China, Colombia, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/726)
3. Corrigendum to the letter dated 5 May 1948 from

- the representative of India to the President of the Security Council (S/734/Corr. 1)
4. Letter dated 30 April 1948 from the representative of Pakistan to the President of the Security Council (S/735)
 5. Resolution on the India-Pakistan question adopted by the Security Council at its 312th meeting, 3 June 1948 (S/819)
 6. Letter dated 15 January 1948 from the Minister for Foreign Affairs of Pakistan to the Secretary-General concerning the situation in Jammu and Kashmir (S/646 and Corr. 1)
 7. Notes on the meeting of the Minister for Foreign Affairs of Pakistan with two members of the Commission (S/AC.12/21)
 8. Notes on the informal meeting of the Minister for Foreign Affairs of Pakistan with two members of the Commission (S/AC.12/22)
 9. Notes on the meeting of the Minister for Foreign Affairs of Pakistan with three members of the Commission (S/AC.12/40)
 10. Notes on the meeting of the Minister for Foreign Affairs of Pakistan with three members of the Commission (S/AC.12/41)
 11. Notes on the meeting of the Commission with the Prime Minister of the Government of India in his office on 14 August 1948 (S/AC.12/45)
 12. Summary of the meeting of representatives of the Government of India with the members of the Commission to discuss the Commission's resolution of 13 August (S/AC.12/46)
 13. Letter dated 9 June 1948 from the President of the Security Council to the Chairman of the Commission (S/AC.12/1/Corr. 1)
 14. Letter dated 9 June 1948 from the President of the Security Council to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/2)

15. Letter dated 5 June 1948 from the representative of India transmitting a communication from the Prime Minister and Minister for External Affairs of the Government of India (S/825)
16. Rules of procedure of the Commission (S/AC.12/4/Rev. 1)
17. Letter dated 22 June 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/10)
18. Cablegram dated 26 June 1948 from the Prime Minister and Minister for External Affairs of the Government of India to the Chairman of the Commission (S/AC.12/13)
19. Letter dated 1 July 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/16)
20. Letter dated 8 July 1948 from the "Azad Kashmir Government" to the Chairman of the Commission (S/AC.12/Info.3)
21. Report made by Sir Girja Bajpai, representative of the Government of India, on his statement before the Commission at its 13th meeting on 13 July 1948 (S/AC.12/Info. 2)
22. Resolution adopted by the Commission at its 15th meeting, held on 14 July 1948 in Faridkot House, New Delhi (S/AC.12/17)
23. Communication dated 17 July 1948 from the Government of Pakistan to the Chairman of the Commission concerning its resolution (S/AC.12/17) of 14 July (S/AC.12/18)
24. Letter dated 15 July 1948 from the Government of India to the Chairman of the Commission concerning its resolution (S/AC.12/17) of 14 July (S/AC.12/19)
25. Resolution adopted by the Commission at its 19th meeting, held on 20 July 1948 in Faridkot House, New Delhi (S/AC.12/23)

26. Letter and memorandum dated 19 August 1948 from the Minister for Foreign Affairs of Pakistan to the Chairman of the Commission (S/AC.12/44)
27. Letter dated 27 August 1948 from the Chairman of the Commission in reply to the letter and memorandum dated 19 August 1948 (S/AC.18/44) from the Minister for Foreign Affairs of Pakistan (S/AC.12/55)
28. Letter dated 1 January 1948 from the representative of India to the President of the Security Council (S/628)

Annex 1

Resolution Adopted by The Security Council at Its 230th Meeting, 20 January 1948 (S/654)

[Original text : English]

The Security Council

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency,

Adopts the following resolution :

A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

Each representative on the Commission shall be entitled to select his alternates and assistants.

The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed

of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

The Commission is invested with a dual function :

- (1) To investigate the facts pursuant to Article 34 of the Charter;
- (2) To exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council, have been carried out.

The Commission shall perform the functions described in Clause C :

- (1) In regard to the situation in the Jammu and Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and
- (2) In regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

The Commission, its members, alternate members, their assistants and its personnel shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary.

ANNEX 2

[Resolution Adopted by The Security Council at its 286th Meeting, 21 April 1948, Concerning The India-Pakistan Question (draft resolution submitted jointly by Belgium, Canada, China, Colombia, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/726). See Official Records of the Security Council, third year, Supplement for April 1948, pages 8 to 12]

ANNEX 3

Corrigendum to the Letter Dated 5 May 1948 from The Representative of India to The President of The Security Council (S/734/Corr. 1)

[Original text : English]

7 May 1948

I have been directed to communicate to you the following message from the Prime Minister and Minister of External Affairs of the Government of India to the President of the Security Council :

"The Government of India have given the most careful consideration to the resolution of the Security Council concerning their complaint against Pakistan over the dispute between the two countries regarding the State of Jammu and Kashmir. The Government of India regret that it is not possible for them to implement those parts of the resolution against which their objections were clearly stated by their delegation, objections which after consultation with the delegation, the Government of India fully endorse.

"If the Council should still decide to send out the Commission referred to in the preamble to the resolution, the Government of India would be glad to confer with it.

"Jawaharlal Nehru, Prime Minister and Minister of External Affairs, India."

(Signed) M. K. Vellodi
India delegation to the
Security Council

ANNEX 4

[Letter Dated 30 April, 1948 from The Representative of Pakistan to The President of The Security Council (S/735). See Official Records of the Security Council, third year, Supplement for May 1948, pages 40 to 42]

ANNEX 5

[Resolution on The India-Pakistan Question Adopted by The Security Council At its 312th Meeting, 3 June 1948 (S/819.) See Official Records of the Security Council, third year, No. 79, page 21 (312th meeting).]

ANNEX 6

Letter dated 15 January 1948 from the Minister for Foreign Affairs of Pakistan Addressed to the Secretary-General concerning the situation in Jammu and Kashmir (S/646 and Corr. 1)

[Original text : English]

15 January 1948

I have the honour to forward the following documents :

Document I, being Pakistan's reply to the complaint preferred by India against Pakistan under Article 35 of the Charter of the United Nations.

Document II, a statement of disputes which have arisen between India and Pakistan and which are likely to endanger the maintenance of international peace and order. Pakistan being a Member of the United Nations has the honour to bring these to the attention of the Security Council under Article 35 of the Charter of the United Nations.

Document III, which contains a statement of the particulars of Pakistan's case, with reference to both the matters dealt with in documents I and II.

It is requested that these documents may be placed before the Security Council and that the Security Council may

be requested to deal with the complaint referred to in document II at the earliest possible date. It is further requested that all action required by the rules in connexion with these documents may kindly be taken as early as possible.

(Signed) Zafarullah Khan
Minister for Foreign Affairs,
Government of Pakistan

Document I

Government of Pakistan

Pakistan's Reply to India's Complaint

The Government of India have, under Article 35 of the Charter of the United Nations, brought to the notice of the Security Council the existence of a situation between India and Pakistan in which the maintenance of international peace and security is likely to be endangered. The situation in their view is due "to the aid which the invaders, consisting of nationals of Pakistan and of tribesmen from territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India". They have requested the Security Council "to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India". They have also threatened that if Pakistan does not do so, the Government of India may "enter Pakistan territory, in order to take military action against the invaders".

The specific charges which the India Government have brought against Pakistan are :

- (a) That the invaders are allowed transit across Pakistan territory;
- (b) That they are allowed to use Pakistan territory as a base of operations;
- (c) That they include Pakistan nationals;

- (d) That they draw much of their military equipment, transport and supplies (including petrol) from Pakistan; and
- (e) That Pakistan officers are training, guiding and otherwise helping them.

While the particulars of Pakistan's case are set out in document III, the Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India. On the contrary and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war. This has caused bitter resentment throughout the country, but despite a very serious risk of large-scale internal disturbances the Pakistan Government have not deviated from this policy. In circumstances which will become clear from the recital of events set out in document III, it may be that a certain number of independent tribesmen and persons from Pakistan are helping the Azad Kashmir Government in their struggle for liberty as volunteers, but it is wrong to say that Pakistan territory is being used as base of military operations. It is also incorrect that the Pakistan Government are supplying military equipment, transport and supplies to the "invaders" or that Pakistan officers are training, guiding and otherwise helping them.

Document II

Government of Pakistan

Pakistan's Complaint against India

For some time past, a situation has existed between the Dominion of India and the Dominion of Pakistan which has given rise to disputes that are likely to endanger the maintenance of international peace and security. Under Article 35 of the Charter of the United Nations, the Government of Pakistan hereby bring to the attention of the Security Council

the existence of these disputes and request the Security Council to adopt appropriate measures for the settlement of these disputes and the restoration of friendly relations between the two countries.

While the particulars of the background and circumstances out of which these disputes have arisen are set out in document III, a brief statement of these disputes is :

In anticipation of the award of the Boundary Commission set up under the Indian Independence Act, 1947, to effect a demarcation of boundaries between East and West Punjab and East and West Bengal, an extensive campaign of "genocide" directed against the Muslim population of East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha, Patiala, Bharatpur, Alwar and Gwalior, etc. was undertaken by the non-Muslim rulers, people, officials, police and armed forces of the States concerned and the Union of India beginning in the month of July 1947 and is still in progress. In the course of the execution of this well-planned campaign, large number of Muslims—running into hundreds thousands—have been ruthlessly massacred, vastly larger numbers maimed, wounded and injured and over five million men, women and children have been driven from their homes into neighbouring areas of western Pakistan. Brutal and unmentionable crimes have been committed against women and children. Property worth thousands of millions of rupees has been destroyed, looted and forcibly taken possession of. Large numbers of Muslims have, by extreme violence and the threat of violence, been compelled to make declarations renouncing their faith and adopting the Sikh or Hindu faith. Vast numbers of Muslims shrines and places of worship have been desecrated, destroyed or converted to degrading uses. For instance, in the State of Alwar no single Muslim place of worship has been left standing.

Among other results of this campaign, the most serious has been to drive into western Pakistan territory over five million Muslims in an extreme condition of destitution, a very large proportion of whom are faced with death owing to privations, disease and the rigorous climate of western

Pakistan during the winter. Apart from the appalling volume of human misery and suffering involved, the economy of western Pakistan has been very prejudicially affected by the incursion of these vast numbers of refugees.

These events have established that the religion, culture and language of the thirty-five million Muslims within the Union of India, and indeed their very existence, is in danger, as not only have the Government of India failed to provide adequate protection to the Muslims in areas which have been referred to above, but the police and the armed forces of the Union of India and the rulers of the States concerned have actively assisted in the massacre and other atrocities committed upon the Muslim population.

In September 1947, the States of Junagadh and Manavadar acceded to, as they were entitled to do under the agreed scheme of partition and the Indian Independence Act, 1947, and thus became part of, Pakistan and entitled to the benefits of the standstill agreement between Pakistan and India. As soon as the accession was announced, India started a war of nerves against these two States and certain other smaller States in Kathiawar, whose intention to accede to Pakistan was well known. A so-called provisional Government of Junagadh was set up. Bombay, with the connivance of the Government of India and the active aid of its officials, and later transferred its headquarters to Rajkot in Kathiawar, where it proceeded to occupy forcibly property belonging to the Junagadh State and ejected Junagadh officials therefrom. The forces of the Indian Union along with the forces of certain Hindu States in Kathiawar in accession with the Indian Union, invested the State of Junagadh in all directions on the landward side and rendered it partially impossible for the State authorities and for the Muslim population of the State to hold any communication with the outside world through normal channels. The running of Junagadh railways and the postal and telegraph services of the State *vis-a-vis* the rest of the country were virtually put an end to. By the adoption of various devices, a state of panic was created inside the State, the object of which was to bring the administration to a standstill. Eventually the

forces of the Indian Union marched into the State under the excuse of an alleged invitation from the Dewan (Prime Minister) of the State. With the entry of these forces into the State was inaugurated an orgy of massacre and loot directed against the Muslim population of the State. A reign of terror was thus set up which still continues.

This action on the part of the Government of India amounted to a direct attack upon and aggression against Pakistan which Pakistan was entitled to repel by force. Pakistan, however, refrained from taking military action in the hope that the situation could be satisfactorily resolved by conciliatory means. This hope has, in spite of a continued series of protests and representations by Pakistan, proved vain. If the situation is not now firmly handled and satisfactorily resolved there would be no course left open to Pakistan but to take appropriate military action to clear these States of India's armed forces and to restore the States to their lawful rulers.

The State of Jammu and Kashmir, which on the south and west is contiguous to western Pakistan and has a Muslim population of nearly 80 per cent and a Hindu ruler, entered into a standstill agreement with Pakistan in the latter half of August 1947. The territory of the State was purchased by the great grandfather of the present ruler from the East India Company in 1846 for 7.5 million rupees, and ever since the Muslim population of this State has been oppressed and exploited by its Hindu Dogra rulers. On several occasions the Muslim population has risen in rebellion against its oppressors, but these risings have always been mercilessly suppressed. The Maharajah was thus aware that any attempt by him to accede to the Union of India would not be tolerated by his people and would provoke violent reactions and uprisings throughout the State which he would be unable to control with the help of his own forces. Apparently he entered into the standstill agreement with Pakistan to secure his communications, all of which ran through Pakistan, and also a continuation of his supplies which could only be moved through Pakistan. The State obtained a narrow outlet into East Punjab and thus into the Union of India as the result of the most unfair and unjust boundary

award of Sir Cyril Radcliffe.

The Maharajah's own desire, as subsequent events have proved beyond a doubt, was to accede to the Union of India, but he dared not take that step for fear of the well-known attitude of the overwhelming majority of his people and the consequences to which such a step might expose him. The device adopted by him was to allay the feelings of his Muslim subjects by means of the standstill agreement and then to bring about a state of affairs which would furnish him with an excuse to call in the military aid of the Union of India and thus transfer to the Government of India the responsibility of dealing with his people. In order to carry this plan into effect, massacres of the Muslim population of the State by armed bands of Sikhs and Hindus and by the forces of the Maharajah were started in the latter half of September and provoked risings of the Muslim population in different parts of the State.

The tragic events and the happenings in East Punjab and the Sikh and Hindu States in and around that province had convinced the Muslim population of Kashmir and Jammu State that the accession of the State to the Indian Union would be tantamount to the signing of their death warrant. When the massacres started, the Muslim population of the State realized that the fate that had overtaken their co-religionists in Kapurthala, Faridkot, Nabha, Jind, Patiala, Bharatpur and Alwar, etc., was about to overtake them also. A wave of terror thus ran throughout the State and the neighbouring districts of West Punjab and the North-West Frontier Province. In their desperate situation, the Muslim population of the State decided to make a final bid for liberty and indeed for their very existence, in which they had the full sympathy of their relations and fellow Muslims in the neighbouring districts of Pakistan. Several thousands of the Muslim people of the State, particularly in the area of Poonch, had served in support of the cause of the United Nations during the Second World War, and they decided to sell their lives dearly in the struggle with which they were now faced.

The Maharajah made this the excuse to "accede" to the Union of India and the Government of India thereupon landed

its troops in the State without consultation with, or even any notice to, the Government of Pakistan with which the State had concluded a standstill agreement and to the territories of which it was contiguous throughout practically the whole of its southern and western border. The Pakistan Government made several efforts to bring about an amicable settlement of the situation but every one of these was rejected by the Maharajah and the Government of India. In the meantime the Muslim population of the State are being subjected to an intensified campaign of persecution and oppression in areas which are in the occupation of the Indian forces.

The Muslim population of the State have set up an Azad (Free) Kashmir Government, the forces of which are carrying on their fight for liberty. It is possible that these forces have been joined by a number of independent tribesmen from the tribal areas beyond the North-West Frontier Province and persons from Pakistan, including Muslim refugees from East Punjab who are nationals of the Indian Union.

The allegation made by the Indian Government that the Pakistan Government is affording aid and assistance to the Azad Kashmir forces, or that these forces have bases in Pakistan territory, or that these forces are being trained by Pakistan officers or are being supplied with arms or material by the Pakistan Government is utterly unfounded.

On the contrary, armed bands from the State have repeatedly carried out incursions and raids into Pakistan territory and the air force of the Indian Union has on several occasions bombed Pakistan areas causing loss of life and damage to property. Protests made by the Pakistan Government to India have passed unheeded. Attacks by units of the Indian Air Force over Pakistan territory have been described as due to errors of judgement. These attacks still continue.

It has been announced by the Government of India that it is their intention after restoring "order" in the State to carry out a plebiscite to ascertain the wishes of the people in the matter of the accession of the State to India or to Pakistan. Anybody having the most superficial knowledge of the conditions that have prevailed in the State during the last 100 years would not hesitate to affirm that a plebiscite held while the

Sikh and Hindu armed bands and the forces of the Union of India are in occupation of the State, and are carrying on their activities there, would be no more than a force. A free plebiscite can be held only when all those who have during the last few months entered the State territory from outside, whether members of the armed forces or private, have been cleared out of the State, and peaceful conditions have been restored under a responsible, representative and impartial administration. Even then care must be taken that all those that have been forced or compelled to leave the State since the middle of August 1947 are restored to their homes, as it is apprehended that in the Jammu Province and elsewhere whole areas have been cleared of their Muslim population.

Ever since the announcement of the decision to carry out a partition of the sub-continent of India into Pakistan and India, those responsible for giving effect to the decision on behalf of India have adopted an attitude of obstruction and hostility towards Pakistan, one of the objects being to paralyse Pakistan at the very start by depriving it of its rightful share of financial and other assets. Even in cases in which agreement had been reached, the implementation thereof was either delayed or sabotaged altogether. This has been illustrated conspicuously by India's failure to implement the causes of the settlement arrived at between Pakistan and India early in December 1947 and announced on 9 December, comprising the division of military stores, cash balances and other matters. Particulars of some of the instances in which India has committed default in implementing its obligations are set out in paragraphs 26 to 29 of document III.

In its complaint preferred to the Security Council under Article 35 of the Charter of the United Nations, India now threatens Pakistan with direct attack.

To sum up, Pakistan's complaint against India is :

- (1) That India has never wholeheartedly accepted the partition scheme and has, since June 1947, been making persistent attempts to undo it;
- (2) That a pre-planned and extensive campaign of "genocide" has been carried out, and is still in pro-

gress against Muslims in certain areas which now form part of the Indian Union, notably East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha, Patiala, Bharatpur, Alwar and Gwalior, etc. which are in accession with India, by the non-Muslim rulers, people, officials, police and armed forces of the States concerned and of the Union of India;

- (3) That the security, freedom, well-being, religion, culture and language of the Muslims of India are in serious danger;
- (4) That Junagadh, Manavadar and some other States in Kathiawar which have lawfully acceded to Pakistan and form part of Pakistan territory have been forcibly and unlawfully occupied by the armed forces of the Indian Union, and extensive damage has been caused to the life and property of the Muslim inhabitants of these States, by the armed forces, officials and non-Muslim nationals of the Indian Union;
- (5) That India obtained the accession of the State of Jammu and Kashmir by fraud and violence, and that large-scale massacre, looting and atrocities on the Muslims of Jammu and Kashmir State have been perpetrated by the armed forces of the Maharajah of Jammu and Kashmir and the Indian Union and by the non-Muslim subjects of the Maharajah and of the Indian Union;
- (6) That numerous attacks on Pakistan territory have been made by the Royal Indian Air Force, by armed bands from the Indian Union and the State of Jammu and Kashmir;
- (7) That India has blocked the implementation of agreements relating to or arising out of partition between India and Pakistan, including the withholding of Pakistan's share of cash balances and military stores;
- (8) That under pressure from the Government of India,

direct or indirect, the Reserve Bank of India is refusing to honour to the full its obligations as Banker and Currency Authority of Pakistan, and that such pressure is designed to destroy the monetary and currency fabric of Pakistan;

- (9) That India now threatens Pakistan with direct military attack; and
- (10) That the object of the various acts of aggression by India against Pakistan is the destruction of the State of Pakistan.

The Pakistan Government request the Security Council :
To call upon the Government of India

- (a) To desist from acts of aggression against Pakistan;
- (b) To implement without delay all agreements between India and Pakistan including the financial settlement arrived at between India and Pakistan, and announced on 9 December 1947, with regard to the division of the cash balances and military stores of the pre-partition Government of India and other matters;
- (c) To desist from influencing or putting pressure directly or indirectly on the Reserve Bank of India in regard to the discharge of its functions and duties towards Pakistan;

To appoint a Commission or Commissions

- (a) To investigate the charges of mass destruction of Muslims in the areas now included in the Indian Union, to compile a list of the rulers, officials, and other persons guilty of "genocide" and other crimes against humanity and abetment thereof, and to suggest steps for bringing these persons to trial before an international tribunal;
- (b) To devise and implement plans for the restoration to their homes, lands and properties of Muslim residents of the Indian Union who have been driven out of or have been compelled to leave the Indian Union and seek refuge in Pakistan; to assist in the relief and rehabilitation of such refugees; to secure the payment

to them by the Indian Union of due compensation for the damage and injuries suffered by them; and to take effective steps for the future security, freedom and well-being of Muslims in India and for the protection of their religion, culture and language;

- (c) To arrange for the evacuation from Junagadh, Manavadar, and other States of Kathiawar which have acceded to Pakistan, of the military forces and civil administration of the Indian Union and to restore these States to their lawful rulers;
- (d) To assist the restoration to their homes, lands and properties of residents of the States referred to in (c) who have fled from, or have been driven out of such States, and for the payment of compensation by the Indian Union for loss or damage caused by the unlawful actions and activities of the military forces, civil officials and nationals of the Indian Union in these States;
- (e) To arrange for the cessation of fighting in the State of Jammu and Kashmir; the withdrawal of all outsiders, whether belonging to Pakistan or the Indian Union, including members of the armed forces of the Indian Union; the restoration and rehabilitation of all Muslim residents of the Jammu and Kashmir State as on 15 August 1947, who have been compelled to leave the State as a result of the tragic events since that date, and the payment to them by the Indian Union of due compensation for the damage and injuries suffered by them; to take steps for the establishment of an impartial and independent administration in the State of Jammu and Kashmir, fully representative of the people of that State; and thereafter to hold a plebiscite to ascertain the free and unfettered will of the people of the Jammu and Kashmir State as to whether the State shall accede to Pakistan or to India; and
- (f) To assist in and supervise the implementation of all agreements arrived at between India and Pakistan in pursuance of the decision to partition the sub-

continent of India and to resolve any differences in connexion therewith.

In conclusion, the Pakistan Government wish to assure the Security Council and the Government of India of their earnest desire to live on terms of friendship with India and to place the relations between the two countries on the most cordial, co-operative and friendly basis. This happy state of affairs so earnestly desired by Pakistan can only be achieved through a just and satisfactory settlement of the differences that at present unfortunately divide the two countries. Any attempt to settle any of these questions in isolation from the rest is bound to end in frustration and might further complicate a situation already delicate and full of explosive possibilities. Friendly and cordial relations can only be restored by the elimination of all differences that are at present generating friction and causing exacerbation. The disputes to which the attention of the Security Council has been drawn in this document are all inter-related and are specific manifestations of the spirit that is poisoning the relationship between the two countries. The restoration of this relationship to a healthy and munificent state depends entirely upon a just and fair settlement of every one of these disputes being simultaneously achieved. Pakistan hopes and trusts that this will be secured as speedily as possible through the Security Council.

Document III

Government of Pakistan

Particulars of Pakistan's Case

The Pakistan Government are glad that the Government of India have chosen to make a reference to the Security Council. In fact they have for some time been of the view that this is the only feasible method of peacefully settling the differences between the two countries. They have already unsuccessfully tried over a period of many months to seek a solution of the disputes between the two Dominions by the methods described in Article 33 of the Charter.

India has chosen to confine the reference to the Security Council to one single aspect of the Kashmir question which ignores the basic and fundamental issues affecting the State of Jammu and Kashmir. But even the Kashmir episode in all its aspects is but one link in the chain of events which has been unfolding itself ever since it became obvious that there was no solution of the Hindu-Muslim problem except the partition of India. A reference to the Security Council must therefore cover much larger ground and embrace all the fundamental differences between the two Dominions.

The story begins as early as the middle of 1946 following the demonstration of Muslim solidarity throughout the country after the last provincial elections. It then became clear that the achievement of Pakistan was the unalterable goal of the Muslims. The inevitability of the partition of the country which then became evident gave rise to a wave of deep resentment among the Hindu and Sikh population of the sub-continent. As a direct result of this, severe communal rioting occurred in several towns and provinces of India such as Calcutta, Noakhali, Bihar, Bombay, Garhmukteshwar, Rawalpindi, Lahore and Amritsar. Such communal strife had not been unknown previously, but what was astonishing was the unprecedented scale of killings that took place in Bihar and Garhmukteshwar, proving beyond doubt the existence of a well-settled plan of extermination of the Muslims. It was during these disturbances that the Rashtriya Swayam Sewak Sangh came to be known as the author of some of the most brutal massacres. The orgy of blood, however, died down in due course but, as later events proved, only temporarily.

The political activity which took place in the early part of 1947 produced a lull, but soon after the partition plan was announced on 3 June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatical Sikhs and the militant Hindu groups headed by the Rashtriya Swayam Sewak Sangh, who had made no secret of their opposition to the partition scheme, in spite of its having been accepted by the representatives of

all the three major communities.

The preparations which the Sikhs were making for creating large-scale disturbances were known to the authorities, and in fact the Sikh leaders made no secret of them. So overwhelming was the evidence that the Viceroy was compelled to warn the Maharajah of Patiala, Master Tara Singh and the other Sikh leaders that strong action would be taken against them. At a meeting which the Viceroy had in the beginning of July 1947 with Congress and Muslim League leaders and members of the Interim Government, it was decided to arrest immediately prominent Sikh leaders including Master Tara Singh and Udham Singh Nagoke. These arrests were, however, postponed on one ground or another and the Sikh plan was allowed to be put into operation with a carefully prepared attack on a special train carrying Pakistan Government employees and their families from New Delhi to Karachi on 9 August 1947.

As the plan unfolded itself, it became clear that the Sikhs, encouraged and actively assisted by the Hindus, had determined to liquidate by violent and bloody means the entire Muslim population of East Punjab. The object of the plan was to kill or drive out Muslims in order to settle in their place the Sikh population which was being pulled out of West Punjab under a planned scheme. The *modus operandi* was to disarm the Muslim population and then to leave it at the mercy of armed bands which were actively assisted by the army and police. There is abundant evidence that this plan had the full support and active assistance not only of the officers of the East Punjab Government but also of the Sikh States such as Patiala, Kapurthala, and Faridkot. Months before the partition of the country in August 1947, Alwar and Bharatpur had set the example in liquidating their entire Muslim population by massacres, forced conversions on a mass scale and by driving out the rest. Patiala, Faridkot, Jind, Kapurthala, in fact all the Hindu and Sikh States in the East Punjab, followed this example with added atrocities and fresh horrors. Malerkotla, a small neighbouring State in the East Punjab which has a majority of non-Muslims in the population and a Muslim ruler, provides a refreshing contrast

since there has been no disturbance, of any kind in that State and the non-Muslim population has been perfectly safe. On the other hand, Kapurthala, which like Kashmir had a majority of Muslims in the population with a non-Muslim ruler, has today hardly any Muslims left. Similarly, large tracts of Muslim majority areas which under the boundary award had been most unjustly included in East Punjab were cleared of Muslims by massacres, forced conversions and expulsions.

The whole country was ravaged by fire and sword, vast numbers were butchered and countless women were abducted. Indeed, decency forbids mention of some crimes committed against women. Millions were forcibly and ruthlessly driven out of their homes. The process went on sector by sector and culminated in the tragedy that was enacted in New Delhi, the capital of India. According to the Government of India themselves, there was a breakdown of administration in the capital for a number of days. The destruction and desecration of mosques, tombs and holy places and forcible conversions on a mass scale were special features of these happenings. In Alwar, for example, every mosque has been destroyed.

While this vast scheme of "genocide" was being put into execution in East Punjab and neighbouring areas, the Pakistan Government made repeated efforts to persuade the Union of India to arrest its course. A number of conferences were held between the two Dominions almost invariably at the instance of the Pakistan Government but, while lip-service was paid to the necessity of restoring order, no serious effort was made by the Indian Government to implement their promises. In fact it became clear that they were determined to leave no Muslims in East Punjab. The Pakistan Government appealed to the Governments of the British Commonwealth to arrange a conference to find ways and means of removing this serious threat to the peace and security of the sub-continent, but the India Government opposed this proposal on the ground of outside interference. The Pakistan Government also proposed that United Nations observers should immediately visit the disturbed areas but this too was opposed by India.

This plan of liquidation of the Muslim population is still proceeding despite the pious professions of the Government of India. The latest example of this is provided by the happenings in the holy city of Ajmer, about which the Government of Pakistan had warned the India Government some weeks ahead. In this connexion, the Government of Pakistan find it difficult to believe that the Government of India are innocent of complicity in this vast scheme of "genocide" started by the Sikhs and Hindus and encouraged and supported by persons in authority as a means of destroying the newly created State of Pakistan. This is amply supported by the speeches and declarations of Hindu and Sikh leaders. The Muslims of India are being subjected to calculated insults and humiliations and pressure is being brought on them by prominent Hindu leaders, including Premiers of provinces, to renounce their language and culture. All sorts of tests of loyalty are being demanded from them.

The one on which particular emphasis is laid is that they should denounce Pakistan and try to undo the partition and express their readiness to fight Pakistan on the side of India in the event of war between the two Dominions, which last is an indication of the future intentions of the Government of India. It is a matter of deep regret that even today responsible members of the Government of India, including the Prime Minister, openly declare their intention or hope of bringing Pakistan back into the Indian Union, well knowing that this can be done only through conquest by arms. The Pakistan Government have pointed out many times to the Indian Government that speeches and statements of this nature are calculated to excite and provoke the Muslims and thus impair friendly relations between the two countries; but these representations have had no effect. Such an attitude can only mean that the Hindu and Sikh leaders, while giving their agreement to the partition plan, did so without any intention of permitting its implementation and, further, that India is determined to undo the settlement by all means at its disposal. In other words, Pakistan's very existence is the chief *cause belli* as far as India is concerned.

The events which took place following the announcement

of the accession of Junagadh and Manavadar States to Pakistan lend further support to the contention of the Pakistan Government that the Government of India intend by all possible means at their disposal to destroy Pakistan.

In accordance with the agreed scheme of partition and the Indian Independence Act, 1947, Indian States were under no compulsion to accede to either of the two Dominions. Notwithstanding this clear provision, the Government of India by a combination of threats and cajolery forced a number of States into acceding to the Indian Union. The rulers of Junagadh and Manavadar were similarly threatened but they stood firm and acceded to Pakistan.

This was the signal for India to launch with fully force its attack, using every possible weapon in order to force the States, against their will, to change their affiliations. Protests were made to the Pakistan Government pointing out that a State which had a Hindu majority population could not accede to Pakistan, since the country had been divided on a communal basis. Another reason given was that Junagadh, though accessible from Western Pakistan by a short sea passage, was not physically contiguous to Pakistan and that its accession to Pakistan was calculated to cause disruption of the integrity of India. Simultaneously with these protests, the Government of India put large bodies of Indian troops on the borders of Junagadh and encouraged the neighbouring Hindu States, which had acceded to India, to do likewise. In clear violation of the standstill agreement, the Junagadh State was subjected to an economic blockade involving stoppage of all vital supplies, including food, cloth and coal, into the State territory. Lines of communication, including railway and telegraph, were operated in such a manner that it became virtually impossible for the State or the Muslims population of Junagadh to communicate with the outside world by the usual means. A strong Press campaign calculated to destroy the morale of the State administration and to create panic among the population was launched both inside and outside the State.

Another line of attack was adopted by setting up a

"provisional government", with headquarters first at Bombay and later at Rajkot, which claimed the right to liberate the non-Muslim population of Junagadh State. The so-called Azad Foj of the provisional government was created and armed by the men and officers of the Indian Dominion. The "provisional government" not only proceeded to seize by force State property in Rajkot but by violent means created conditions in which it became impossible for the State administration to function. At this point, the Government of India sent their troops and occupied the State under the plea of an alleged "invitation" by the Dewan. Since then an orgy of murder, arson, rape and loot has been let loose against the Muslims in the State by the military forces of India in exactly the same manner as in northern India, and Muslims have had to flee from the State. It should be added that, as long as the State was under the administration of the Nawab, there was no molestation of any section of the population whatever. According to newspaper reports Mr. Samaldas Gandhi, the head of the so-called provisional government, has openly thanked the Deputy Prime Minister of India for the assistance received. All this was done in utter disregard of the international code of conduct and ordinary neighbourly decency.

In the interest of peace between the two Dominions Pakistan refrained from sending a single soldier to Junagadh. Occupation by force of Junagadh, which is Pakistan territory, is a clear act of aggression against Pakistan. Pakistan is entitled to send its forces into Junagadh to clear out the invading forces of India by military action and, in the event of the present position continuing, would be under the necessity of taking such action in discharge of its obligation to the ruler and the people of Junagadh since, under the terms of the Instrument of Accession executed between Junagadh and Pakistan, "defence" is an obligation of Pakistan.

In the case of Manavadar, not even the flimsiest show of justification was considered necessary, and the State was taken under military occupation without any explanation being offered. A similar fate befell the Talukadari States of Sardargarh, Bantva, Sultanabad and Mangrol. The unfortunate rulers of some of these States have been kept in detention and

have been subjected to considerable pressure to wean them from their affiliation to Pakistan.

Kashmir provides the culminating illustration of the hostility of the India Government to Muslims and Pakistan, and their determination to satisfy their imperialistic ambition of rule over the entire sub-continent by fascist tactics and use of naked force.

The State of Jammu and Kashmir was purchased by the great-grandfather of the present Hindu Dogra Maharajah from the East India Company in 1846 for the paltry sum of 7.5 million rupees. Nearly 80 per cent of the population of the State is Muslim but the administration, civil and military, is almost entirely in the hands of non-Muslims. The administration has been notoriously oppressive and retrograde and the Muslim population has been kept in a state of object poverty and misery.

On 15 August 1947 Jammu and Kashmir state like other States was free to accede or not to accede to either Dominion. It entered into a standstill agreement with Pakistan under which *inter alia* the administration of post and telegraph services was entrusted to Pakistan. Since all the natural outlets of the State continue into Pakistan, all outside supplies reached the State through Pakistan.

In view of the communal composition of the population of the State and the continuous oppression and degradation to which they had throughout the period of Dogra rule been subjected and against which they had risen a number of times, it was perfectly obvious to the Maharajah that any attempt made by him to accede to the Union of India and thus to perpetuate the slavery of the overwhelming Muslim population of his State to Hindu rule would immediately provoke a widespread and violent uprising which he would be utterly unable to withstand with the help of his own forces. He, therefore, chose to enter into a standstill agreement with Pakistan which served for the time being to allay the uneasiness of the Muslim population of the State and led them to hope that the standstill agreement would eventually ripen into full accession. This was, however, only a device on the part of the Maharajah to gain enough time within which to create conditions which

would furnish him with a plausible excuse to call in the forces of the Indian Union so that, after trampling down all popular opposition with their help, he might be able to accomplish his desire of acceding to the Union of India, thus putting upon the latter the responsibility of dealing with his rebellious people.

During September 1947, disturbing news of repression and massacres of the Muslims of the State by the Sikh armed bands and Rashtriya Swayam Sewak Sangh, assisted by the Hindu Dogra police and army of the State, started reaching Pakistan through Muslim refugees who sought asylum in Pakistan. Soon the number of refugees swelled and it became obvious that the happenings of the East Punjab and the States like Patiala and Kapurthala were being re-enacted in Jammu and Kashmir. At the same time, the number of raids by armed bands from the State territory into Pakistan increased. The Pakistan Government repeatedly tried to discuss these questions with the Kashmir Government as well as the complaints of the Kashmir Government regarding supplies which, owing to the breakdown of communications in the Punjab, were not reaching the State in full.

The Pakistan Government sent a representative of their Ministry of Foreign Affairs to Srinagar to discuss these matters with the State, but Mr. Mahajan, who had taken charge as Prime Minister of the State on 15 October, refused to hold discussions with him and he had to return. On the very day that Mr. Mahajan took charge, he addressed a telegram to the Prime Minister of Pakistan threatening that, unless Pakistan agreed to an impartial inquiry into the matters in dispute between the two States, he would be compelled to ask for outside assistance. The Prime Minister of Pakistan at once accepted the proposal for an impartial inquiry and asked the Prime Minister of Kashmir to nominate a representative for this purpose. The Government of Kashmir made no further reference to this matter. On 18 October, the Prime Minister of Kashmir in a communication to the Governor-General of Pakistan repeated his charges against Pakistan and concluded by saying that he wished to make it plain that the attitude of the Government of Pakistan could be tolerated no longer and that he would be justified in asking for outside

assistance. On 20 October, the Governor-General replied calling attention to the repeated attempts of Pakistan to maintain friendly relations with Kashmir and inviting the Prime Minister of Kashmir to come to Karachi and talk things over with him. The Governor-General also pointed out that the threat to call outside help amounted almost to an ultimatum and showed that the real aim of the Kashmir Government's policy was to seek an excuse to accede to the Indian Union.

In the opinion of the Government of Pakistan, the course of these negotiations clearly shows that the Kashmir Government had never any intention of maintaining friendly relations with Pakistan and that, at any rate as early as 15 October, they had made up their minds to call in outside assistance in concert with the Government of India.

Meanwhile, the repression of Muslims in the State was increasing in intensity. Repression was followed by resistance particularly in the area of Poonch, which includes in its population 65,000 ex-soldiers who fought for the United Nations during the last world war. The resistance in its turn was sought to be put down with severer oppression until the Dogra savagery, supported by the brutality of Sikhs and Rashtriya Swayam Sewak Sangh, created a reign of terror in the State. In sheer desperation the Muslim population of the State broke out into open revolt in several areas and declared their independence of the Maharajah. Many of them were ruthlessly cut down and acts of indescribable horror were perpetrated by the Dogra forces of the Maharajah assisted by the Sikhs and the Rashtriya Swayam Sewak Sangh. This state of affairs naturally aroused strong feelings of sympathy throughout Pakistan, where the presence of millions of Muslim refugees from East Punjab (nationals of the Indian Union) and Indian States was an ever constant reminder of the fate which was about to overtake the Muslims of Kashmir. Consequently, some of these refugees and other Muslims from contiguous areas who had numerous ties of relationship with the persecuted Muslims of the State went across to assist their kinsmen in the struggle for freedom and indeed for existence itself.

It is to be noted that the first outside incursion into the State occurred more than a week after the Prime Minister of Kashmir had threatened to call in outside assistance. It is clear that the sole responsibility for these events must rest on the Maharajah's Government, which ordered the oppression of the Muslims as a matter of State policy on the model of what had happened in East Punjab and States like Patiala, Bharatpur, Alwar, etc. In conspiracy with the India Government, they seized upon this incursion as the occasion for putting into effect the preplanned scheme for the accession of Kashmir as a *coup d'etat* and for the occupation of Kashmir by the Indian troops simultaneously with the acceptance of the accession by India.

The Pakistan Government have not accepted and cannot accept the accession of Jammu and Kashmir State to India. In their view the accession is based on violence and fraud. It was fraudulent inasmuch as it was achieved by deliberately creating a set of circumstances with the object of finding an excuse to stage the "accession". It was based on violence because it furthered the plan of the Kashmir Government to liquidate the Muslim population of the State. The accession was against the well-known wishes of an overwhelming majority of the population and could not be justified on any grounds whether moral, constitutional, geographical economic, cultural or religious.

For some time past, the India Government have been engaged in misleading the world as to the true wishes of the people of Kashmir by playing up the National Conference and its leader Sheikh Abdullah. Sheikh Abdullah had been sentenced by the Maharajah's Government in 1946 to a long term of imprisonment on a charge of treason. He was released early in October 1947 as part of the plan to accede to India. On the other hand, the true leaders of the Muslims of the State, whose only representative organization is the Muslim Conference, are kept in jail on technical grounds. Their real offence is that, being the true representatives of the majority of Muslims of the State, they favour the accession of the State of Pakistan.

If the Government of India had extended to the Pakistan

Government the courtesy of consulting them before embarking on their enterprise and suddenly landing troops in Kashmir, or even notifying Pakistan of their proposed action, thus providing an opportunity for discussion and consultation, it might have been possible to avert the tragedy of Kashmir. The events following the forcible occupation of the State by the Indian troops more than confirmed the worst fears of the Muslims. Massacres, atrocities and crimes against women were now committed on a scale surpassing anything which the Maharajah's forces had previously perpetrated. Jammu Province, which had a majority of Muslims, has today very few Muslims left in areas under occupation of the Indian forces. The condition created by the military intervention of the Government of India served to swell the torrent of popular resentment in Pakistan to an uncontrollable degree.

In view of this background, it is not surprising if independent tribesmen and persons from Pakistan, in particular the Muslim refugees (who, it must be remembered, are nationals of the Indian Union) from East Punjab are taking part in the struggle for the liberation of Kashmir as part of the forces of the Azad Kashmir Government. In regard to modern military equipment which is alleged to be in the possession of the Azad Kashmir forces, according to the best information of the Pakistan Government, these forces are poorly equipped and such few modern weapons as they possess have either been captured from the Dogras and Indian troops or have been in their possession since the days of the British. The Pakistan Government emphatically repudiate the charge that they have supplied military equipment, transport and supplies to the "invaders" or that Pakistani officers are training, guiding and otherwise helping them.

The military resistance of Azad Kashmir has no doubt come as an unpleasant surprise to the Indian Government, which appear to have underestimated the valour and patriotism of a people stirred to their depths by the horrors perpetrated upon them and their co-religionists in certain parts of the Indian Union. The character of the terrain, the climate, the familiarity of the Azad Kashmir forces (the bulk of which are drawn from the State) with the country in which they are

operating, their military traditions and the military skill acquired by them during their fight on the side of the United Nations have all combined to nullify to a large extent the vastly superior equipment of the Indian forces.

This recital of the events in Kashmir would be incomplete without a statement of the many efforts made by the Pakistan Government to reach a peaceful settlement of this question. Immediately after the intervention of the Government of India in Kashmir on 27 October, the Governor-General of Pakistan arranged a conference to be attended by the two Governors-General, the two Prime Ministers of the Dominions and the Maharajah and Prime Minister of Kashmir. This conference fell through owing to the indisposition of Pandit Jawaharlal Nehru, the Prime Minister of India. A second meeting was arranged for 1 November, but again at the last minute Pandit Nehru could not come and only the Governor-General of India came. During the discussion with the Governor-General of India, the Governor-General of Pakistan put forward the following proposals :

To put an immediate stop to fighting, the two Governors-General should be authorized and vested with full powers by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours notice to the two opposing forces to cease fire. The Governor-General of Pakistan explained that he had no control over the forces of the Azad Kashmir Government or the independent tribesmen engaged in the fighting but that he would warn them that, if they did not obey the order to cease fire immediately, the forces of both Dominions would make war on them.

Both the forces of the India Dominion and the outside "invaders" to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir State territory.

With the sanction of the two Dominion Governments, the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for a free plebiscite without delay under their joint control and supervision.

No reply was received to these proposals for many days. On 2 November, however, the Prime Minister of India made it

clear in a broadcast that the India Government intended to force a decision by military action and to continue their occupation and the puppet administration set up by them. The plebiscite which he has announced would be held after the complete subjugation of the State by the Indian armed forces is bound to be no more than a force and must result in the permanent occupation of the State by India, which is the aim of the India Government. All subsequent discussions between the two Dominions have proved fruitless owing to the insistence of India on keeping their troops in the State and their refusal to agree to an impartial administration as the prerequisite of a free and unfettered plebiscite. The Pakistan Government suggested as early as 17 November that the whole matter, including the retention of troops, the character of the interim administration and the holding of the plebiscite, should be entrusted to the United Nations but the India Government refused to accept this proposal.

While Pakistan is doing its best to maintain peaceful relations with India, there have been many attacks on Pakistan territory by armed bands from Jammu and Kashmir State territory supported by the forces of the Maharajah and those of the Indian Union. The Pakistan Government have sent repeated representations to the India Government on the subject but without any effect. The Royal Indian Air Force has also made numerous attacks on Pakistan territory causing considerable damage to life and property. The protests of the Pakistan Government have only elicited the assertion by the Government of India that these are minor incidents due to error of judgment by Indian airmen. The attacks have, however, been persisted in.

India's treatment of Pakistan in respect of administrative, economic and financial matters indicates the same attitude of hostility towards Pakistan. The process of partition itself was punctuated by all manners of obstruction aimed at depriving Pakistan of its rightful share of financial and other assets and, even in cases in which agreement was reached, the implementation was delayed or sabotaged. A large number of instances can be quoted in support of this statement but it will suffice to mention the following: (1) division of military stores; (2)

division of cash balances; (3) interference with the Reserve Bank so as to destroy the monetary and currency fabric of Pakistan.

To supervise the division of armed forces and military stores, a Joint Defence Council was set up consisting of Lord Mountbatten, Governor-General of India, as Chairman: representatives of the two successor authorities, India and Pakistan; and Field Marshal Auchinleck, the Supreme Commander, as impartial authority to implement the decisions of the Joint Defence Council. It was estimated that the Supreme Commander would be able to complete his task by 31 March 1948. Within a very short time of the setting up of the Supreme Command, India created so hostile an atmosphere in Delhi that the Supreme Commander found it impossible to discharge his responsibilities and was forced to recommend the abolition of his headquarters long before he had completed his task. In spite of the protests of Pakistan, the Government of India succeeded in doing away with this impartial organization which could have ensured equitable distribution of the stores and proper reorganization of the armed forces. The India Government pledged their word at the time that Pakistan would get its due share of military stores. These assurances were supported by Lord Mountbatten, who, at a meeting of the Joint Defence Council held on 8 November, stated that "he believed that in view of the unanimous endorsement given by the Indian Cabinet to the pledge that India would deliver to Pakistan the latter's full share of stores, Pakistan's principal objection had been met". This pledge, like other similar pledges of the India Government, has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether.

The story of the division of cash balances is even more illustrative of the attitude of the Government of India. The cash balances of the undivided Government of India on 14 August 1947 were 4,000 million rupees. Pakistan representatives demanded that of this sum 1,000 million rupees should be handed over to Pakistan as its share. Since the matter could not be settled, it was decided to refer the case to the Arbitral Tribunal. In the beginning of December 1947,

however, all outstanding cases which had been referred to the Arbitral Tribunal were settled by agreement between the two Dominions and Pakistan's share of the cash balances was fixed at 750 million rupees. This financial settlement was reached on its own merits and was in no way linked with the Kashmir question or any other issue. Nevertheless India has since refused to hand over the amount until the Kashmir question is settled. India's action is made possible only by the fact that the Reserve Bank of India, which holds the cash balances, is controlled and dominated by the India Government and is not functioning as it should, as a trustee of both the Dominions.

According to the arrangements agreed to at the time of partition, the Reserve Bank of India was to act as Banker and Currency Authority both for the Indian Union and Pakistan. As it was realized that it would take some time for Pakistan to establish its own currency and Banking Authority and to substitute its own currency for the common currency of the prepartition India which is in use all over the sub-continent, it was agreed that Pakistan's own currency should commence coming into use from 1 April 1948, but that a separate Currency Authority should be set up by Pakistan by 1 October 1948. On the suggestion of the Reserve Bank made before the partition, it was agreed that :

- (a) So long as there were notes available in the Banking Department, Pakistan should be freely allowed ways and means advances on payment of interest at one-half per cent and the only limitation on these ways and means advances would be the availability of notes in the Banking Department; and
- (b) When ways and means advances were needed by Pakistan to meet its requirements which could not be otherwise met out of its cash balances or ways and means advances, Pakistan should be able to have its currency expanded against its own *ad hoc*s. The limit for such *ad hoc*s was fixed at 30 million rupees. It was agreed, as a part of the financial settlement between India and Pakistan announced on 9 December 1947, that India would not object to the removal of this top limit if the Reserve Bank did not

raise any objection. Such *ad hoc*s were to be retired against the Pakistan share of the assets of the Reserve Bank in its Issue Department.

Under pressure from the Government of India, direct or indirect, the Reserve Bank is now refusing to honour to the full its obligations. This pressure is continuing and is designed to destroy the monetary and currency fabric of Pakistan, thus endangering the safety of the State.

Not content with these various acts of hostility and aggression against Pakistan, the Government of India now threaten Pakistan with a direct military attack.

ANNEX 7

Notes on the meeting of the Minister for Foreign Affairs of Pakistan with two members of the Commission (S/AC.12/21)

Held at Karachi on Saturday, 17 July 1948, at noon

Present

Government of Pakistan : Sir Mohammed Zafrullah Khan (Foreign Minister), Mr. Mohammad Ali (Secretary-General).

Members of the Commission : Mr. Lozano (Colombia), Mr. Adams (United States of America), Mr. Symonds (Secretariat), Mr. Aghassi (Secretariat).

Mr. Lozano opened the conversation by expressing his pleasure at meeting Sir Mohammed again. He said that the group had been appointed by the Commission and directed by its Chairman to express to the Government of Pakistan the anxiety of the Commission regarding the situation in the State of Jammu and Kashmir. The situation appeared according to the last reports to have deteriorated and, indeed, to have become practically an undeclared war between the two countries. Time was running short, and soon it might become impossible to reach a rapid, complete and final settlement of the problem. The first and most urgent step was to stop the fighting. The Commission, therefore, wished to obtain the views of the Government of Pakistan as to the possibility of an

agreement for a cease-fire order. He was sure that Sir Mohammed was well aware of the difficulties facing the Commission, which was most anxious to bring about a rapid and amicable settlement of the dispute between the two countries. He said that his country had also faced serious territorial problems arising as a result of its independence. All of these were solved by peaceful means, the most delicate being that on the Amazon frontier, which had brought it to the verge of a war but which was settled by the League of Nations in 1932. It was all a matter of generosity and good will. Mr. Lozano was certain that the peoples of Pakistan and India were capable of that great wave of generosity needed to bring them together and make peace possible. He said that he was confident that it would be possible to achieve a solution to the Kashmir problem in the near future.

Sir Mohammed Zafrullah Khan welcomed the return of Mr. Lozano and said that he was at the disposal of the Commission whenever the need arose. With regard to the suggestion for a cease-fire agreement, he said that he would have preferred it in the form of a specific proposal.

Mr. Lozano replied that it was the desire of the Commission to present this suggestion simultaneously to the Governments of Pakistan and India in order to know their views as to the proper manner in which a cease-fire agreement could be promptly brought about, so that the Commission might be in a better position to explore the possibility of narrowing whatever differences might arise between the points of view as presented by them on this pressing issue and of finding a specific proposal which would be acceptable to both parties.

Sir Mohammed Zafrullah Khan stated that, as far as general views were concerned, these had been submitted to the Security Council. However, certain developments had taken place since those discussions in the Council, and he would be glad to ascertain the present views of his Government as soon as possible. He understood that the Commission had conveyed a similar expression to the Government of India. It would have been of great help to the Pakistan Government if it had been possible for it to know what the Government of India was

prepared to do. Moreover, he had been hoping that the Commission would have been by now in a position to present certain proposals of its own after having studied the various factors in the situation. However, he quite understood that the Commission might not yet be ready to formulate such proposals, and so it evolved upon him at the moment to ascertain the views of his Government as to the steps to be taken for a cease-fire agreement.

Mr. Adams emphasized that it had been the intention of the Commission, in dispatching this group to Karachi, that the two Governments would thus be able concurrently to formulate their views on the possibility of a cease-fire agreement.

Sir Mohammed Zafrullah Khan stated that he wanted to be sure that he had not misinterpreted the suggestions of the Commission to both Governments, and that both Governments had been told the same thing. He presumed that the Commission would then consider the views of both Governments as to what steps were feasible to take toward a cease-fire agreement.

Mr. Lozano suggested that, if Sir Mohammed wished, they could discuss the question privately and informally.

Mr. Adams said that the Commission wished the Government of Pakistan to know that political and military representatives of the Government of India had appeared before the Commission to present their assessment of the present situation in the State of Jammu and Kashmir.

Sir Mohammed Zafrullah Khan said that he had seen Press reports to that effect.

Mr. Lozano said that this was a preliminary discussion which was concerned with ascertaining the views of the Pakistan Government with regard to the suggestion for a cease-fire agreement.

Sir Mohammed Zafrullah Khan said that after consultation with his Government, he would inform the group as to when he would be prepared to discuss the question.

The meeting closed at 12.45 p.m.

ANNEX 8

**Notes on the informal meeting of the Minister for Foreign
Affairs of Pakistan with two members of the
Commission (S/AC. 12/22)**

Held at Karachi on Sunday, 18 July 1948 at 9.30 a.m.

Present

Government of Pakistan. Sir Mohammed Zafrullah Khan (Foreign Minister), Mr. Mohammad Ali (Secretary-General).

Members of the Commission. Mr. Lozano (Colombia), Mr. Adams (United States of America).

Sir Mohammed Zafrullah Khan said that Pakistan was carefully studying the suggestion of the Commission for a cease-fire agreement which, as he understood, had also been submitted to the Government of India. However, as he had said yesterday, he had hoped that the Commission would have already formulated definite proposals in this regard.

Mr. Lozano explained to the Foreign Minister that the intention of the Commission in simultaneously submitting this suggestion to both Governments was to have the opportunity of narrowing whatever differences there might be between the points of view which might lead to a definite proposal acceptable to both parties.

Sir Mohammed Zafrullah Khan briefly reviewed the history of the dispute and said that India from the very beginning had based its case on the legality of the request of the Maharajah for accession to India. Pakistan completely denied this position; it denied that an accession had ever been effected, and maintained that the question of accession was one for the future, to be determined by the plebiscite. Therefore, India's contention that legally it had a right to be in Kashmir was not recognized by Pakistan. Pakistan was more justified in coming to the assistance of the Kashmiri forces, which represented the people of the State, than Indian troops were justified in coming in at the request of the Maharajah.

The Government of India had progressively receded from its original position, which was that the question of accession was to be ultimately determined by a fair and unfettered plebiscite. Its position now was that the bringing about of the necessary conditions for conducting such a plebiscite was a constitutional question to be decided by the Maharajah and his Government.

Sir Mohammed stated that, in order to arrive at a satisfactory agreement on the cease-fire question, three minimum conditions had to be met : (1) Indian troops should be withdrawn from the State; (2) the proposals for a cease-fire order should have the consideration and approval of the "Azad Kashmir Government"; (3) provision must be made for the maintenance of law and order and the protection of the Muslim population following the withdrawal of Indian troops.

Sir Mohammed was not clear as to how adequate protection could be afforded to the population upon the withdrawal of the troops from the State. To Mr. Lozano's suggestion that a mixed force, along the lines of the Punjab boundary force, might offer such protection, Sir Mohammed replied that the Punjab boundary force had been a failure and that perhaps the Commission might consider the possibility of an agreement being reached by which Pakistani troops would police Muslim areas and Indian troops would police non-Muslim areas, both under neutral officers and under the exclusive authority of the Commission. He did not object to the retention of local State forces provided that they also were under neutral control. He pointed out, however, that the local State forces were practically non-existent.

The Minister for Foreign Affairs said that, while he would have to consult his Government, he believed that Pakistan would agree to the withdrawal of its troops from Kashmir upon the fulfilment of certain conditions. He further stated that the dispute was a result of the continued hostility of the Hindus towards the Muslims. In a broader sense, this had created serious economic problems for Pakistan. For instance, the Government of Pakistan had just received telegrams from the Commander-in-Chief, requesting funds and provisions in order to take care of about 10,000 refugees who had recently come out of Kashmir into Pakistan.

Sir Mohammed was of the opinion that a cease-fire order, without strong neutral forces to maintain law and order, could never be enforced. If the Indian forces and other Hindu and Sikh invaders now in Kashmir remained, it would be impossible to stop hostilities. He referred to the pressure which the Indian Government was exerting upon the State of Hyderabad. He said that, although he did not wish to comment on the merits of the Hyderabad case, he regarded it as an example of what was to be expected in Kashmir if the Indian troops and volunteer elements such as the Rashtriya Swayam Sewak Sangh were allowed to remain.

Sir Mohammed pointed out that, in order to bring about a cessation of hostilities in Kashmir, it would be necessary to withdraw all the forces, including volunteers, from both sides and to bring in an international force, as he had suggested in the Security Council, for the maintenance of law and order. In view of the world situation, however, this might not be possible at this time. The Minister for Foreign Affairs discussed the idea of an international force and the role of the United Nations in the dispute. In his opinion, the more authority the Commission assumed, the quicker a solution could be found to the problem. The Government of Pakistan was pleased that the Commission continued to exert its authority. It hoped that the Commission would not merely make recommendations, but would phrase its decisions in terms of directives.

In connexion with the second of the conditions set forth by the Pakistan Government for a cease-fire agreement, Mr. Lozano observed that if the Commission agreed that any proposals for a cease-fire should have the approval of the "Azad Kashmir Government", this would, in his opinion, constitute a *de facto* recognition of the "Azad Kashmir Government" and introduce an additional complication into the situation. As the plebiscite had not yet taken place in Kashmir, the Commission could not anticipate itself and extend tacit recognition to a group whose strength remained to be determined.

Sir Mohammed Zafrullah Khan replied he did not wish to elaborate upon this question. The Security Council had received Sheikh Abdullah, who had been brought there by the

delegation of India as the representative of the Kashmir Government. However, the "Azad Kashmir Government" representatives had not been formally received by the Council. He himself had not met Sardar Ibrahim until after the latter had come to New York. While in New York, Mr. Ibrahim had met informally a number of representatives in the Council. Among them, General McNaughton, Mr. Noel-Baker and Senator Austin had commented favourably upon what they regarded as the capabilities of Mr. Ibrahim. Sir Mohammed did not think there would be any objection on the part of the Commission to hearing the representatives of the "Azad Kashmir Government", either in informal session or in private. It was important that those representatives should be heard, and this would not constitute a recognition on the part of the Commission. Indeed, anyone interested in the problem had a right to be heard, for a better understanding of it. The Foreign Minister emphasized that in submitting the second point, he had not intended to trick the Commission into recognizing the "Azad Kashmir Government". His only aim was to ensure that its views should be taken into account in the formulation of any cease-fire agreement, whether by the appearance of representatives of the "Azad Kashmir Government" before the Commission or through the Pakistan Government as intermediary.

Mr. Lozano referred to Sir Mohammed's suggestion of withdrawing Indian and Pakistani troops to defined positions and placing them under the control of neutral officers. He wondered if the Pakistan Government could obtain from the "Azad Kashmir Government" the acceptance of such a formula without the Commission submitting it directly to them.

Sir Mohammed Zafrullah Khan considered that this might be possible as a matter of procedure, but he emphasized that the views of the "Azad Kashmir Government" must not be ignored by the Commission.

Mr. Lozano said that since the case had been discussed in the Security Council, the situation had altered in view of the presence of regular Pakistani forces in Kashmir. This had weakened the position of Pakistan in the dispute.

Sir Mohammed Zafrullah Khan replied that he had

previously stated the reasons for the presence of Pakistani troops in Kashmir. They could not allow a situation similar to the one in Hyderabad to arise in Kashmir.

Mr. Mohammad Ali observed that the Pakistani troops had gone into Kashmir because, had they not done so, the Indian troops would have taken possession of the whole State, bringing about a *fait accompli*. An additional reason was to prevent the flooding of the border region by refugees.

Sir Mohammed Zafrullah Khan stated that the Pakistan troops had moved into Kashmir early in May for three reasons: (1) to protect the territory of Pakistan from possible aggression by Indian forces; (2) to prevent a *fait accompli* in Kashmir by the Indian Government; and (3) to prevent influx of refugees into Pakistan. The exodus of refugees from Kashmir had already created grave economic problems and placed Pakistan in an unfavourable position in connexion with the proposed plebiscite.

Mr. Lozano inquired whether, if a satisfactory solution for a cease-fire agreement were reached, the question of partition of Kashmir would be considered. He made it clear that he did not wish to commit himself to the desirability or otherwise of such a solution.

Sir Mohammed Zafrullah Khan replied that under no circumstances would his Government consider the partition of Kashmir. At present, Kashmir had a border of only 20 or 30 miles adjoining India. Should India obtain possession of Jammu, this would considerably extend the Kashmir-India frontier and would constitute a constant threat to Pakistan. Furthermore, both India and Pakistan had agreed that a plebiscite was the basis for any solution of the problem. The plebiscite was a condition *sine qua non* of the acceptance of the act of accession, as set forth by the Governor-General of India in his letter of 27 October 1947 to the Maharajah.

Sir Mohammed stated that another problem which was of concern to Pakistan was the position of the Gilgit Agency. He discussed the background of the relations of the Gilgit Agency with the British Crown. In late October 1947, representatives of the Gilgit Agency had requested accession to Pakistan, but the Pakistan Government had not taken any decision at that

time. There had been frequent requests from the Gilgit Agency which had clearly indicated that, if no action were taken by Pakistan, it would seek accession to the Union of Soviet Socialist Republics. He had received reports a few days ago that Gilgit town had been bombed by the Indian Air Force. This was wanton murder, since there were no military targets. Sir Mohammed felt that Pakistan would soon be requested to send military aid to Gilgit Agency and that, if it did not do so, such aid would be obtained elsewhere.

The Minister for Foreign Affairs inquired whether the Commission wanted his reply in writing or whether it would prefer to have a representative of Pakistan appear before the Commission. He reminded Mr. Lozano that the Government of Pakistan was willing to appoint a representative under paragraph 16 of the resolution of 21 April (S/726). Mr. E. Graeffe had suggested on his visit to Karachi that perhaps it was not yet time to have a liaison representative with the Commission. If the Commission now wished, Sir Mohammed would be glad to appoint a representative who would be at their disposal.

After discussion, it was agreed that the Pakistan Government would not communicate with the Commission further either on the appointment of a representative or the cease-fire agreement until requested to do so by the Commission.

In conclusion, Mr. Lozano suggested that the world was badly in need of the example of a pacific settlement of a dispute. If the Kashmir dispute were settled amicably, it might well be that Pakistan would find its position strengthened when seeking outside assistance for the solution of its economic problems.

ANNEX 9

**Notes on the meeting of the Minister for Foreign Affairs
of Pakistan with three members of the Commission
(S/AC.12/40)**

*Held at Karachi on Saturday, 14 August 1948
at 5.30 p.m.*

Chairman : Mr. Lozano (Colombia).

Present

Government of Pakistan. Sir Mohammed Zafrullah Khan (Minister for Foreign Affairs), Mr. Mohammad Ali (Secretary-General), Mr. M. Ayub (Deputy Secretary).

Members of the Commission. Mr. Lozano (Colombia), Mr. Siri (Argentina), Mr. Oakes (United States of America), Mr. Bloch (Secretariat).

At 5.30 p.m. on Saturday, 14 August, Sir Mohammed Zafrullah Khan received Mr. Lozano, Chairman of the Commission, Mr. Siri, representative of Argentina, Mr. Oakes, alternate representative of the United States of America, and Mr. Bloch of the Secretariat. Mr. Mohammad Ali and Mr. Ayub were also present.

The Chairman presented the cease-fire proposal with a statement that the Commission had given most careful consideration to the points of view of the Governments concerned, and was aware of its responsibilities in submitting this document as a set of principles which should be used as a basis for the formulation of a truce agreement. He also emphasized the responsibility of the Governments before which the proposals were placed. He hoped that this agreement would be accepted and then a new stage of deliberation could be reached whereby extensive time would be given to both parties and others concerned so that fair and equitable conditions might be established to ascertain the free expression of the will of the people in the State of Jammu and Kashmir. He said he felt that the cease-fire was essential to clear the atmosphere for such further talks. The Chairman added that the Vice-Chairman of the Commission, Mr. Korbél, was simultaneously submitting a proposal to the Prime Minister and Minister for External Affairs of the Government of India.

Sir Mohammed Zafrullah Khan said that he appreciated the delicacy and vital importance of the Chairman's task. Although he would have liked to submit additional material to the Commission and regretted that he could not have done so, he would not be deterred by this fact from giving the proposal the serious consideration which it deserved.

The Chairman assured him that no final solution would

be reached without extensive hearings for all the parties concerned. He added that the group present at this meeting would have to join the rest of the Commission in New Delhi probably by 18 August, and he would greatly appreciate it if the Pakistan Government would find it possible to give an answer by that time.

Sir Mohammed Zafrullah Khan assured the Chairman that prompt consideration would be given to the proposal and that he would try to meet the deadline desired by the Chairman. However, he pointed out that such a proposal might involve three authorities : i.e., the authorities in Karachi, the Chief of State in Quetta, and the Army Headquarters in Rawalpindi. Consultations under these conditions might protract the matter to a certain extent. He pointed out that the period of time needed to come to a conclusion would, of course, depend upon the nature of the proposal.

The Chairman said that he did not wish to set a rigid time-limit for a reply on a matter of such importance. The Commission would receive the reply after the Governments had given the matter ample consideration.

ANNEXURE 10

Notes on the meeting of the Minister for Foreign Affairs of Pakistan with three members of the Commission (S/AC.12/41)

*Held at Karachi on Thursday, 19 August 1948
at 10 a.m.*

Chairman : Mr. Lazano (Colombia).

Present

Government of Pakistan. Sir Mohammed Zafrullah Khan (Minister for Foreign Affairs), Mr. Mohammad Ali (Secretary-General), Mr. M. Ayub (Deputy Secretary).

Members of the Commission. Mr. Lozano (Colombia),

Mr. Siri (Argentina), Mr. Oakes (United States of America), Mr. Bloch (Secretariat).

The Chairman opened the meeting by inviting Sir Mohammed Zafrullah Khan to make his remarks on the cease-fire proposal submitted by the Commission.

Sir Mohammed Zafrullah Khan stated that his Government had given serious consideration to the proposal submitted by the Commission. It had found, however, that before it would be able to arrive at any conclusions which it could transmit to the Commission, it would be necessary to ask for certain elucidations. To this effect, he had brought a written list of points which he submitted to the Commission. He stated that, in addition to the written memorandum, he wanted to make certain oral observations.

The Pakistan Government was not sure of the objective which prompted the Commission to make the proposal, i.e., whether the Commission considered that the proposals should work in the direction of putting into effect the Security Council resolution of 21 April (S/726) or whether they were to lay a foundation for the creation of conditions which might either result in enforcing the Security Council resolution or in finding alternative solution. Specifically, his Government wondered whether the objective was to work out a free and impartial plebiscite or to obtain an intermediate stage which might enable the Commission to come to another solution. If the Commission had anything else in mind, the Government of Pakistan would like to know the Commission's intentions so that the Government could evaluate the proposals made against that background. The view of the Pakistan Government was that the Commission, although its function was that of a body of mediation, was bound to achieve a result which would make it possible to put the resolution of the Security Council into effect so that a free and impartial plebiscite could be obtained. He said that he knew that he could not impose the view of the Government of Pakistan on the Commission but that he would like to know what the Commission's views were in the matter.

He stated that Pakistan still adhered to the view that, as

far as a cease-fire was concerned, it would have been easier if a simple appeal had been made to stop fighting and nothing more. Although he admitted that the Commission might turn out to have been right, Sir Mohammed felt that the other method would have been the correct one. He considered himself unable to come to any conclusions in regard to part I as long as he did not have a clear view with regard to parts II and III of the proposal made by the Commission. Since parts II and III could not be divorced from part I, the Pakistan Government would like the Commission to clarify parts II and III in writing. The Government of Pakistan also wished to be informed as to the procedure, programme, time-table and methods of further discussions contemplated by the Commission. Sir Mohammed appreciated the fact that the Commission had to divide itself into two parts so that the proposals could be brought simultaneously before the two Governments. His Government wanted to know how the Commission intended to proceed from then on, and what the next contemplated stages were.

Mohammed repeated that, in addition to the points raised in the written memorandum, he would like to know what the objective was which the Commission had in mind in making the proposals. Was it to establish conditions for a free and impartial plebiscite and were those proposals designed with this point in view or were the proposals made in order to create the possibilities for different solutions? If the latter should be true, he would like to know what alternatives to a plebiscite were being considered.

Sir Mohammed added that there were certain points which he had submitted in writing which must also be clarified. The stoppage of fighting, he repeated, could have been done more easily if there had been a simple call to stop fighting. The Government must know exactly what the Commission had in mind in regard to parts II and III.

He concluded by saying that the Commission might find it more convenient to study at leisure the points submitted by him, but he was ready to talk on the spot if the representatives so desired.

The Chairman said he had already notified New Delhi

that mutual discussions were necessary in order to clarify certain points of the proposal, as suggested, on both sides. The memorandum would be studied and a clarification would be given, if possible, by that afternoon or the following day.

Mr. Lozano continued by saying that the first point regarding the objectives which the Commission had in mind in formulating the proposal was the opinion that the prompt cessation of hostilities and the correction of certain conditions, the continuance of which was likely to endanger the peace, were essential to implement the endeavours of the Commission, which were to assist the Governments of India and Pakistan in effecting a final and peaceful settlement of the situation.

Part I had as its objective to obtain a ceasefire order immediately upon the acceptance of the principles contained in part II, the details of which could be discussed between both Governments and the Commission. He stated that the Commission had mediated for a long time on the conditions presented by the two Governments. He referred to his visit to the Minister for Foreign Affairs in Karachi when the latter himself had said it was the hope of his Government that the Commission would formulate definite proposals regarding a cease-fire order. He felt that the purpose of part III could be fulfilled only if the cease-fire could be maintained for a long period of time. The objectives of part III were based on the points of reference of the Security Council resolutions. By creating a tranquil and peaceful atmosphere, the Commission hoped that the representatives of both Governments, together with the Commission, would enter into consultations regarding the problems to be solved and, by aiming at fair and equitable conditions, would assure the exercise of the will of the people as stated in the resolution. There was no doubt that both the Governments and the Commission would study in common the differences and the best way to arrive at a solution, whether through a plebiscite or other alternatives, which would assure always that the will of the people prevailed. The good offices of the Commission constituted a common ground between the two Governments so that consultations could be held for the solution of the issue. He then addressed his colleagues of the Commission and asked them to comment.

Mr. Oakes referred to the question of the Pakistan Minister for Foreign Affairs regarding the objectives of part II as they were to affect conditions for a final settlement. He stated that he inferred from the latter's remarks that the Government of Pakistan perhaps thought the Commission considered that conditions as they would exist upon implementation of part II would be such as to permit a fair and just expression of the will of the people. He wished to make it clear that the Commission by no means thought that this would necessarily be the case.

Sir Mohammed Zafrullah Khan said that it was quite clear to the Pakistan Government that part II of the Commission's proposal would not create conditions under which a fair and impartial plebiscite could take place.

Answering the request of Mr. Oakes that Sir Mohammed elaborate on his question concerning the Commission's thought regarding part II, he replied that he wished to know whether the Commission's point of view was that these proposals should clear the way for the holding of a fair and impartial plebiscite to decide to which Dominion Jammu and Kashmir should accede or whether the Commission had something else in mind. Sir Mohammed understood that the Chairman had clarified this point but, according to the Chairman, part III left it open to discussion as to what would be the basis for a fair settlement.

The Chairman replied that the basis was the points of reference of the Security Council resolutions.

Mr. Oakes said that the Commission might, of course, recommend any solution if acceptable to both Governments. However, if either of the Governments continued to demand a plebiscite, the Commission had no intention of insisting upon a different solution.

Sir Mohammed Zafrullah Khan said that it would not be within the powers of the Commission to insist on a different solution, since paragraph 18 of the Security Council resolution bound the Commission to execute the resolution. He continued that, unless the Government of Pakistan was quite clear, not only with regard to the nature of the objective but that the objective was agreed upon and conditions pertaining

to it laid down, it would be found difficult to comply with conditions presented in part II. Parts II and III were inseparable. Either the Commission should have stopped at part I or, if it thought it necessary to go further, it should have gone beyond part II because parts II and III stood together. Part II laid down what each was required to do, and part III left what was to be done more or less open for settlement and discussion. In his opinion, settlement of part III should have precedence. However, the whole picture would have to be settled before any acceptance of part III could be considered. Sir Mohammed stated that the intention of the Commission in regard to part III had been clarified by the Chairman but this did not bring the solution any closer.

The Chairman stated that as far as procedure was concerned, the Commission could stay in Karachi to allow the necessary time for the Government of Pakistan to express its views before the Commission and to clarify any other points. Details of the truce settlement and other matters could be discussed. But the principles, however, should be accepted first so that afterwards the discussions could take place. There would have to be a conference between the two High Commands regarding the issuance of the cease-fire order, and then there would be discussion of the details of the truce after its acceptance by the two parties concerned.

Sir Mohammed Zafrullah Khan stated that if the elucidation were obtained, the Pakistan Government would put forward its views on the proposals which had been transmitted to it on behalf of the Commission. He wanted to know if further substantive discussions of the proposals would be with only a part of the Commission or with the Commission as a whole and where the discussions would take place.

The Chairman replied that the purpose was that as soon as the principles were found acceptable by the parties, the Commission as a whole would enter into consultation with both Governments in Srinagar or another place in order to assure the final and peaceful settlement under the aims sought in the resolution.

Sir Mohammed Zafrullah Khan observed that he had not said whether or not they were acceptable, which could be

decided after the only requested elucidation had been received. Nothing had been said on the merits of the proposal. He would like to know whether discussion of proposals and recommendations would be with the full Commission or with only part of it.

The Chairman said that the principles of the proposal must be accepted, but that the details of the truce were to be discussed. Once the principles had been accepted, the whole matter would be referred to the Commission for study.

Sir Mohammed Zafrullah Khan said that he felt that he was ready to confer as soon as the Commission had studied the points submitted by the Government of Pakistan. He felt that the written record should be studied because oral recitations were insufficient.

To the Chairman's question whether the answers were requested in writing, Sir Mohammed Zafrullah Khan said that recollection of oral communications was sometimes unreliable.

The Chairman assured him that the matter would be studied with great care, giving both India and Pakistan ample opportunity to obtain clarification of the points embodied in the resolution submitted for their consideration by the Commission on 14 August.

The meeting rose at 10.30 a.m.

ANNEX II

Notes on the meeting of the Commission with the Prime Minister of the Government of India in his office on 14 August 1948 (S/AC.12/45)

At 6 p.m. on Saturday, 14 August 1948, Pandit Jawaharlal Nehru, the Prime Minister and Minister for External Affairs of the Government of India, received the Commission in his office at Government House. The following were present : for the Government of India, the Prime Minister, Mr. Ayyangar, Sir Girja Bajpai, Mr. Vellodi; for the Commission, Mr. Korbel, Mr. E. Gracffe, Mr. Huddle, Mr. Leguizamon, Mr. Samper, Mr. Colban and Mr. Kunst.

Before the Commission's resolution on the cease-fire was

handed to the Prime Minister, Mr. Korbé stated that, in the drafting of the resolution, the Commission had given very careful consideration to all the observations made by the representatives of the respective Governments. The Commission, he said, had carefully weighed every word or phrase before approving its final formulation, so that the resolution was the result of a most meticulous consideration of the problem. The Commission hoped that the resolution would be acceptable to both Governments and that it would bring the desired cessation of hostilities.

Mr. Korbé asked the Prime Minister to give his Government's reply to the resolution at the earliest convenience. He realized that the resolution required an equally careful consideration on the part of the Indian Government as it did on the part of the Commission. He did not wish to press for speed, but mentioned that a prompt answer would be gratefully appreciated.

The Prime Minister skimmed the resolution and handed it over to Mr. Ayyangar and subsequently to Sir Girja. He assured the Commission that he would give the Government's answer as soon as possible, but considering the pressure of work and the forthcoming celebrations for the Independence Day, he could not state a definite date. The resolution appeared to the Prime Minister the result of very careful wording and would have to be read with due care on the part of the Government.

Mr. Ayyangar shared the Prime Minister's opinion and said that he would refrain from any impromptu comments but would like to give due consideration to such an important document.

The Commission took leave of the Prime Minister and the representatives of the Indian Government at 6.30 p.m.

ANNEX 12

Summary of the meeting of representatives of the Government of India with the members of the Commission to discuss the Commission's resolution of 13 August (S/AC.12/46)
Held at New Delhi on Tuesday, 17 August 1948, at 3 p.m.

Present

Government of India : Pandit Jawaharlal Nehru, Prime Minister and Minister for External Affairs; Sir Girja Bajpai, Mr. Ayyangar, Mr. Pai, Mr. Vellodi.

Members of the Commission : Mr. Leguizamon (Argentina), Mr. E. Graeffe (Belgium), Mr. Samper (Colombia), Mr. Korbel (Czechoslovakia), Mr. Huddle (United States of America), Mr. Adams (United States of America).

The Prime Minister opened the discussion by stating that the Government of India had very carefully examined the resolution presented by the Commission and had requested this meeting with the representatives of the Commission in order to clarify certain of the provisions of the resolution of 13 August. He commented that the Government of India was sincerely anxious to effect a peaceful settlement of its dispute with the Government of Pakistan over Kashmir. It was important, however, that various steps towards such a solution be examined carefully, inasmuch as the taking of an initial step which was not a solid one might cause a further deterioration of the situation rather than contribute to its solution.

Turning to the resolution itself, Pandit Nehru said that he intended to comment only on the major points. Under part I he inquired, with reference to paragraph A, at what point the four days mentioned therein began. Mr. Korbel explained that it was the intent of this paragraph to provide that agreement as to the date when the cease-fire would begin would be determined within four days after acceptance of the proposals by both Governments, and that the four-day period began immediately upon such acceptance.

Turning to paragraph C, the Prime Minister inquired as to exact meaning of "local changes in present dispositions". Mr. Korbel explained that these were changes which the commands of both sides would agree were essential to facilitate a cease-fire. The two commands, he said, would agree on such changes, the cease-fire would then be issued, and then the changes would be carried out. He emphasized that changes would be effective only if agreed upon by the two

commands and that, if no agreement were reached, the forces would stand on their present lines. Pandit Nehru inquired if the truce line would be the same as the cease-fire line, to which Mr. Korbel replied in the affirmative.

The Prime Minister then remarked that, before an effective truce could be arranged, it would be necessary that a fairly precise line be worked out. He explained that there were several pockets in which at present there were no military forces. Some of these, he stated, Indian forces could occupy at will, but at present they were unoccupied. In such case, he inquired, what would the line be and who would determine the line?

Mr. Korbel replied that the Commission had endeavored to avoid going into military details and to limit itself to matters of political importance. Mr. Graeffe explained that it was the Commission's intent that the cease-fire line would be along the lines occupied by the respective forces and that any no-man's-land which existed would remain.

The Prime Minister digressed to comment on the possible legal implications of accepting a cease-fire along present lines. He wondered if a certain legality would not be accorded to the presence of Pakistani troops in Kashmir by acceptance of the proposition that the cease-fire be effective along the present lines. India, he said, maintained that it was legally in Kashmir, and though this might be contested by Pakistan, one thing was certain, and that was that the territory did not belong to Pakistan, and therefore that its troops were illegally in that State. Mr. Korbel replied that the document had to be considered as an entity, and that part II with its provision for the withdrawal of Pakistani troops should be considered along with part I. He doubted that the Government of India was thereby in any way recognizing the legality of the presence of Pakistani troops in Kashmir. The Prime Minister observed that, even so, acceptance accorded a validity to the presence of those troops from the point of view of a truce, that is, from a military sense.

Returning to the idea that certain pockets would exist if present lines were accepted, Pandit Nehru recalled that the representatives of India had, at an early meeting of the

Commission in New Delhi, suggested a precise line along which a cease-fire should be effected. He believed that in the absence of such a definition, it could be anticipated that events would take place in those pocket areas which would be denied and that much difficulties would be created thereby.

A second consideration which bothered the Government of India with reference to the fixing of a cease-fire line along the present lines was that those lines ran very near to the Pakistani frontier and that in a short time varying from one-half to two hours, the tribesmen or the Pakistani Army itself could overrun the positions held by garrisons left by the Indian Army, and that a situation might be created worse than that of last October. He contended that India needed to have certain strategic points for defence against sudden attack.

Mr. Korbel replied that the Commission had been quite aware of that danger, but that it had tried to strike a military balance. The Commission felt that if the two Governments could be brought together, the danger of a sudden incursion would be removed. Moreover, he pointed out that limited Government of India forces would remain and that on the other side only the Azad forces would remain in their present positions. Should the eventuality envisaged by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan.

While agreeing that this might be so, the Prime Minister remarked that, should such an incursion take place, it would take another eight months to rectify the situation. He further remarked that he did not believe Pakistan could consider itself threatened by the presence of Indian troops in Kashmir. If the Government of India were of evil intent, he said, its forces would attack Pakistan directly and not via Kashmir and Gilgit. On the other hand, he considered that Kashmir was directly threatened by the presence of Pakistani troops in that State. He concluded his comments on the subject by stating that, in order to ensure the security of Kashmir, there must be no possibility of a sudden incursion such as had previously occurred.

Mr. Korbel replied that the Commission fully recognized the concern of the Government of India for security, but that

in all frankness he had to tell the Prime Minister that the Government of Pakistan was equally fearful of invasion by the Indian forces. The Commission, he said, could not assure either country on this question of security. The present document, he said, was a first step in that direction. If the Commission could succeed in obtaining the withdrawal of Pakistani troops, it would have the obligation, while on the sub-continent, of watching over Pakistan. Once the Kashmir problem had been satisfactorily settled, it would then be the duty and right of the Government of India, should the State finally be placed under the sovereignty of that country, to take all necessary measures for the security of that area.

The Prime Minister reiterated his fears of possible infiltration with or without the knowledge of the Government of Pakistan and mentioned that the strategic points previously enumerated to the Commission which the Government of India considered that its forces must hold in order to ensure the security of Kashmir. Mentioning Domel in particular, he remarked that, if Government of India forces held that point, a natural boundary between the two would be established along the line of the river, and that Pakistan would, in no sense, be threatened through the occupation of that point by the forces of the Government of India inasmuch as Pakistan was from twenty-two to twenty-six miles distant.

Mr. Korbelt commented that such a readjustment of the front line went beyond the cease-fire and said frankly that the Commission, after giving careful consideration to the Indian point of view in that respect, had not been able to accept the view. However, such a readjustment should not be ruled out if the respective Commanders-in-Chief agreed to make such a change. He emphasized again that the success of the resolution depended on the existence of good will between the parties, to which the Prime Minister replied that the Commission had here to deal with a hysterical and neurotic state of mind.

Mr. Huddle remarked that the Commission had come there with an open mind, and that after being there a short time had become confirmed in its belief that it could not impose any conditions on the parties. The Commission was simply an intermediary and, as such, it had endeavoured to

ascertain the feelings of the two parties. The Commission had concluded, he said, that both parties genuinely wanted an agreement. The Commission had been careful to avoid dicta and in some quarters had been criticized for not taking a stronger position. The Commission, he said, had given consideration to the military considerations involved. The present draft was a compromise, but the Commission believed that its acceptance by the two parties would provide a basis for a common discussion. The Commission, moreover, had reason to believe that if the resolution were agreed to, incursions such as were feared by the Government of India would not take place. The resolution, he said, was so worded as to avoid sudden or abrupt changes in the military situation which would leave a possibility for attack.

Mr. Huddle then referred to a recent article in the *London Times* which, with reference to the destruction of a water works in Jerusalem, had criticized the Security Council for assuming unto itself certain powers, in that case the giving of guaranty to either side, which it did not possess. The United Nations, he concluded, had no power to back up guaranties of that sort and consequently the Commission in the present instance was working entirely on a basis of securing agreement between the parties. The Commission, he felt, believed that it had "down to earth" proposals and that it was not dealing in theory. Mr. Graeffe corroborated that view, saying that he believed that, in the resolution of 13 August, the parties had a basis on which the edifice of a final solution could be built.

Turning to part II, Pandit Nehru inquired whether the principles elaborated therein were considered to be final or whether they might be subject to change on the basis of the comments which either party wished to advance. In reply, Mr. Korbél explained that the Commission was glad to provide any explanations of the text but that, as worded, the preamble meant that the Commission wished both parties to accept part II in principle, following which the details could be worked out. The Commission, he said, had hoped four weeks ago that an unconditional cease-fire could be worked out, but that in response to the request of the Government of India, the Commission had drafted proposals coupling the cease-fire with

certain conditions. The conditions finally proposed were those which the Commission considered just, and which could be defended before the Security Council.

The Prime Minister inquired again if the principles as elaborated represented the Commission's final decision, or whether it was open to the Government of India to put forward ideas for changes. Mr. Korbél replied that, in the Commission's opinion, no possibility for discussion should be excluded, but that the draft was not open to change as a result of bilateral discussions.

Remarking that that answer limited the scope of discussions very greatly, the Prime Minister proceeded to comment on various other proposals under part II, feeling that the Commission might like to have the Government of India's views thereon. The formulation of paragraph 1 under section A, he said, constituted "rather a feeble and complicated way of saying something very simple". On that same point, Mr. Ayyangar said that the Government of India readily accepted the principle that Pakistani troops should be withdrawn, but that it was not in accord with the reasons given in support of that principle.

Mr. Korbél pointed out that the Prime Minister himself had said that the Government of India was not concerned with humiliating Pakistan but wished to effect the withdrawal of Pakistani troops. Paragraph 1 under section A, he said, secured that result. The Commission, he said, did not wish to concern itself with the juridical questions involved but on that point had followed the line adopted in the Security Council resolution of 21 April (S/726).

Turning next to paragraph 3 under section A, the Prime Minister inquired if that wording envisaged any change in the status of the territory, or whether it recognized the jurisdiction of the Government of Jammu and Kashmir over that territory. Mr. Korbél remarked that that point incorporated the suggestion which the Prime Minister himself had advanced and that the phrase *pending a final solution* was intended to recognize the temporary nature of the administration by local authorities. Sovereignty over the territory was not to be changed.

Asked by the Prime Minister if the Commission would

function as a representative of the State authorities, Mr. Korbél replied that he did not know if the Commission were competent to do that. The Prime Minister, appearing to accept that interpretation, commented that in practice the Kashmiri authorities would not interfere with the administration of the area. He pointed out, however, that no local administration then existed and that one would have to be created. The area, he said, was then occupied by people one hundred per cent sympathetic to Pakistan, as a result of non-Muslims having been driven out or killed. He wondered how it would be possible for the Commission to distinguish raiders from the local population and remarked that it was his understanding that all revenue records and others had been burned and that Pakistani nationals would remain out of uniform, making it difficult for the Commission to select people truly representative of the local population. Mr. Korbél remarked that the Commission was aware of its inability to control fully the administration of the evacuated territory and, therefore, had intentionally used the expression *surveillance*.

Turning to section B, the Prime Minister felt that it was faulty in requesting the simultaneous withdrawal of the two armies inasmuch as the Pakistani army was there illegally. In reply, Mr. Korbél explained that, as drafted, that provision provided not for the simultaneous withdrawal of the two armies, but rather that the Indian forces would begin withdrawal after being advised by the Commission that Pakistani forces had begun withdrawal. The requirement that Indian troops begin their withdrawal before Pakistani forces had completed their withdrawal from the State, he said, had been arrived at to meet Pakistan's fears of an attack by Indian forces and to make it easier for Pakistan to accept the withdrawal of its troops. Mr. Huddle reiterated that the Commission had not wished to impose any abrupt changes under which the security of either party would be threatened. He believed acceptance of that provision would provide an earnest of the good faith of the two parties.

With reference to paragraph 2 under section B, Pandit Nehru remarked that it would be necessary for India to retain troops in Kashmir for defensive purposes as well as for the

maintenance of law and order. Recalling that the same issue had been raised in the Security Council, he said that the Government of India must have sufficient troops to protect the territory against external attack. Mr. Korbel commented that, in his understanding, the phrase *law and order* could be interpreted to include maintenance of adequate defence inasmuch as that was essential to law and order.

Commenting on paragraph 3, the Prime Minister criticized what he considered the unilateral nature of the request made therein to the Government of India and the Government of the State of Jammu and Kashmir. He wondered whether a similar proclamation should not be required of the Government of Pakistan with reference to territory evacuated by Pakistani troops. In reply, Mr. Korbel commented first that he did not think that provision demanded the guaranty of any new rights. With respect to the Prime Minister's remark, he said that he thought that the Government of India would have severely criticized the Commission had it asked Pakistan to assume any responsibility with reference to the State of Jammu and Kashmir.

In response to the Prime Minister's inquiry as to how long the truce would last, Mr. Korbel replied that it was intended to be effective until a final solution had been reached, but he considered that that was a point which could be discussed by the two parties.

Turning finally to part III, the Prime Minister inquired if the Commission had any ideas regarding the general lines which a final solution might take. Mr. Korbel replied that the Commission had no right to submit a solution on which the parties had not agreed. He said that the Commission believed it possible that a solution different from that envisaged in the Security Council resolution might be worked out and that the Commission would be quite willing to help in that respect. However, if no agreement could be reached the Commission, he believed would have to fall back on its instructions from the Security Council.

Thanking Commission members for their explanations of the resolution, the Prime Minister stated that he expected to be able on the following day to inform the Commission when

it could expect a final answer from the Government of India. Before such an answer could be arrived at, he said, it would be necessary to consult the Cabinet as well as the representatives of the Government of Kashmir.

Mr. Korbelt thanked the Prime Minister for the opportunity to discuss the resolution with him and appealed to him to give careful consideration to that resolution before deciding upon an answer.

The meeting rose at 5.30 p.m.

ANNEX 13

Letter dated 9 June 1948 from the President of the Security Council to the Chairman of the Commission (S/AC.12/1/Corr. 1)

Lake Success, 9 June 1948

I have the honour to transmit the following documents for the consideration of the Commission of Mediation :

Letter dated 5 June 1948 from the representative of India to the United Nations, forwarding a message from the Prime Minister and Minister for External Affairs of India (S/825).

Verbatim record of the 315th meeting of the Security Council (S/PV315), at which the above letter was discussed.

Reply dated 9 June 1948 to the Prime Minister and Minister for External Affairs of India.

In accordance with the views expressed at the 315th meeting of the Security Council, I should be grateful if the Commission of Mediation would communicate directly with the Prime Minister and Minister for External Affairs of India, as regards his request for advance information on the point or points on which the Commission wish to confer with the Indian Government.

(Signed) Faris El-Khoury
President of the Security Council

ANNEX 14

Letter dated 9 June 1948 from the President of the Security Council to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/2)

Lake Success, 9 June 1948

I have the honour to acknowledge receipt of your message concerning the India-Pakistan question, communicated to me in the letter dated 5 June 1948 from the representative of India to the United Nations. This message was circulated to representatives on the Security Council and discussed at its 315th meeting held on 8 June 1948.

In accordance with the views expressed at that meeting, I wish to explain that the Council has taken no position on the merits of the matters raised in the letter dated 15 January 1948 from the Foreign Minister of Pakistan and maintains an open mind on these questions.

The resolution of 3 June 1948 only instructs the Commission of Mediation to gather further information, when it deems appropriate. It preserves the order of the Commission's work outlined in paragraph D of the resolution of 20 January 1948, which places the situation in Jammu and Kashmir before the other situations set out in the letter dated 15 January 1948 from the Foreign Minister of Pakistan.

Furthermore, the resolution of 3 June 1948 directs the Commission to seek to accomplish in priority the duties assigned to it by the resolution of 21 April 1948, which relates to the situation in Jammu and Kashmir.

I have forwarded your message to the Commission of Mediation and asked them to communicate directly with you as regards your request for advance information on the points on which they wish to confer with your Government.

I wish to assure you that in its consideration of these questions the Security Council has been animated only by the desire to achieve a peaceful settlement and promote friendly relations between the Governments concerned.

(Signed) Faris El-Khoury
President of the Security Council

ANNEX 15

[Letter dated 5 June 1948 from the representative of India transmitting a communication from the Prime Minister and Minister for External Affairs of the Government of India (S/825). See *Official Records of the Security Council*, third year, *Supplement for June 1948*, pages 78,79.]

ANNEX 16

Rules of procedure of the Commission
(S/AC.12/4/Rev.1)

(Adopted at the 4th meeting, held on 18 June 1948 in Geneva, and amended at the 11th meeting on 3 July 1948)

I. Meetings

Rule 1

Meetings of the United Nations Commission for India and Pakistan (hereinafter called the Commission) shall be held as occasion may require by decision of the Commission, or its Chairman, or at the request of the Security Council, or of a representative on the Commission.

Rule 2

The date and place of each meeting, if not decided on at a previous meeting of the Commission, shall be notified by the Secretariat to the representatives of the Commission whenever possible not less than twenty-four hours in advance.

II. Agenda

Rule 3

The provisional agenda for each meeting of the Commission shall be drawn up by the Secretariat in consultation with

the Chairman and shall be communicated to the representatives on the Commission, when practicable in advance of the scheduled meetings.

Rule 4

The provisional agenda shall include :

Items proposed by the Commission at a previous meeting;

Items proposed by any member of the Commission;

Items proposed by the Security Council;

Items proposed by a sub-commission of the Commission;

All items, communications, or reports which the Chairman or the Secretariat may deem necessary to put before the Commission.

Rule 5

The first item on the provisional agenda of any meeting of the Commission shall be the adoption of the agenda.

III. Representatives

Rule 6

Each representative on the Commission may be accompanied by alternative representatives, advisers, and secretaries.

Rule 7

An alternate representative or adviser may act as a representative upon designation by the representative.

Rule 8

The credentials of representatives and the names of alternate representatives, advisers, and secretaries shall be transmitted to the Secretariat of the United Nations as early as possible. The credentials shall be issued either by the Head

of the State or Government, by the Minister for Foreign Affairs, or the chief representative to the United Nations. The credentials shall be examined by the Secretariat, which shall submit a report thereon to the Commission.

IV. Officers

Rule 9

The Commission shall elect from among its representatives its Chairman, Vice-Chairman, and Rapporteur.

The chairmanship of the Commission shall be assumed immediately after adoption of the rules of procedure by the representative of the member delegation first in the English alphabetical order; and the Vice-Chairman shall be the representative of the delegation next in the English alphabetical order;

The Chairman shall hold office for a period of three weeks and shall be succeeded by the Vice-Chairman, at which time the representative of the delegation next in the English alphabetical order shall become Vice-Chairman;

This procedure shall be successively and automatically followed during the lifetime of the Commission, with succession of the first delegation after the last in the English alphabetical order has served.

Rule 10

The Chairman shall declare the opening and closing of each meeting of the Commission, shall direct its discussions, ensure observance of these rules, accord the right to speak, put questions, and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Commission and over the maintenance of order at its meetings.

Rule 11

If the Chairman finds it necessary to be absent during

one or several meetings or a part of a meeting, the Vice-Chairman shall take his place.

V. Secretariat

Rule 12

The Secretary-General shall act in that capacity in all meetings of the Commission and such subsidiary bodies as it may establish. He may designate a member of the staff to act in his place at these meetings.

Rule 13

The Secretary-General shall provide and direct the staff required by the Commission and such subsidiary bodies as it may establish.

Rule 14

The Secretariat shall receive, translate, and distribute the documents of the Commission and its subsidiary bodies; prepare working papers; interpret speeches made at the meetings; prepare and circulate the records of the meetings; have the custody and proper preservation of the documents; publish the reports of the meetings and generally shall be responsible for all the necessary arrangements for meetings and other activities of the Commission and its subsidiary bodies.

Rule 15

No decision involving expenditures shall be made by the Commission until the Secretariat has had an opportunity of stating the effect of the proposal upon the budget estimates of the United Nations.

VI. Languages, Records

Rule 16

For purposes of efficiency, the Commission will conduct its work in English except when French may be required.

Rule 17

Members of the Commission and other persons who may address the Commission in a language other than either of the working languages of the United Nations shall, as a rule, provide their own interpreters. If a persons who appears at the instance of the Commission is unable to employ any of the official languages and provide his own interpreter, the Secretariat shall provide for the interpretation.

Rule 18

As a general rule, only summary records of public and private meetings shall, whenever possible, be drawn up, unless the necessity for verbatim records in respect of a specific meeting or part of a meeting is recognized by the Commission, after consultation with the Secretariat. The records shall be made available as soon as possible to the representatives. The representatives shall inform the Secretariat not later than twenty-four hours after receipt of the records, of any corrections they wish to have made. Each representative shall have the right to annex verbatim or explanatory statements to the summary record.

Rule 19

The summary records in which no corrections have been requested, or which have been corrected in accordance with rule 18, shall be considered as the official records of the Commission.

VII. Public and Private meetings*Rule 20*

Meetings of the Commission and its subsidiary bodies shall be held in public, unless the Commission or the subsidiary body decides otherwise.

Rule 21

Official Press *communiqué's* shall be previously approved by the Chairman of the Commission. Press releases and verbal briefings may be issued by the Secretariat, unless instructions to the contrary are given by the Commission.

VIII. Conduct of Business*Rule 22*

A majority of the members of the Commission shall constitute a quorum.

Rule 23

No representative may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 24

The Chairman or the Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusion arrived at by the subsidiary body.

Rule 25

The Secretary-General or a member of the Secretariat delegated by him may make to the Commission or any of its subsidiary bodies any oral or written statement which the Secretary-General considers desirable.

Rule 26

During the discussion of any matter, a representative may

rise to a point of order and the point of order shall be immediately decided by the Chairman in accordance with the rules of procedure. A representative may appeal against the ruling of the Chairman. The appeal shall immediately be put to the vote, and the Chairman's ruling shall stand unless overruled by a majority of the members present and voting.

Rule 27

The Commission may limit the time to be allowed to each speaker.

Rule 28

During the course of a debate the Chairman may announce the list of speakers, and, with the consent of the Commission, declare the list closed. He may, however, accord the right of reply to any member if a speech delivered after he has declared the list closed makes this desirable.

Rule 29

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. Permission to speak on the adjournment of the debate shall be accorded to the proposer of the motion and one member opposing the motion, after which the motion shall be immediately put to the vote.

Rule 30

A representative may at any time move the closure of the debate on the item under discussion whether or not any other representative has signified his wish to speak. Permission to speak on the closure of the debate shall be accorded only to one speaker opposing the closure, after which the motion shall be immediately put to the vote. If the Commission is in favour of the closure the Chairman shall declare the closure of the debate.

Rule 31

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motion shall be immediately put to the vote.

Rule 32

Subject to rule 26, the following motions shall have precedence in the following order over all other proposals or motions before the meeting :

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the item under discussion;
- (d) For the closure of the debate on the item under discussion.

Rule 33

Subject to rule 32, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote immediately before a vote is taken on the proposal in question.

Rule 34

Proposals and amendments should normally be introduced in writing and handed to the Secretariat, which shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motion as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

Rule 35

A motion may be withdrawn by its proposer at any

time before voting on it has commenced, provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any member.

Rule 36

When a motion has been adopted or rejected it may not be reconsidered at the same meeting unless the Commission, by the majority vote, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

IX. Voting

Rule 37

Each member of the Commission shall have one vote.

Rule 38

Excepting cases provided for in rule 26, decisions in the Commission shall be taken by a majority of not less than three concurring votes of members present and voting.

Rule 39

For the purposes of these rules, the phrase *members present and voting* means members casting an affirmative or negative vote. Members who abstain from voting are considered as not voting.

Rule 40

The Commission shall normally vote by show of hands, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members. The name of each member shall be called in any roll-call and he shall reply "Yes", "No", or

"Abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members.

Rule 41

After the Chairman has announced the beginning of voting, no representative shall interrupt the vote except on a point of order in connexion with the actual conduct of the voting. Explanations of their votes by members may, however, be permitted by the Chairman either before or after the voting.

Rule 42

Parts of a motion or draft resolution shall be voted on separately if a representative so requests. The resulting motion or draft resolution shall then be put to the vote in its entirety.

Rule 43

When an amendment is moved to a motion or draft resolution, the amendment shall be voted on first. When two or more amendments are moved to a motion or draft resolution, the Commission shall first vote on the amendment furthest removed in substance from the original motion or draft resolution and then on the amendment next furthest removed therefrom, and so on, until all the amendments have been put to the vote. If one or more amendments are adopted, the amended motion or draft resolution shall then be voted upon. A motion is considered an amendment if it merely adds to, deletes from, or revises part of a motion or draft resolution.

Rule 44

If two or more motions or draft resolutions relate to the same question, the Commission shall, unless it decides otherwise, vote on the motion or draft resolution in the order in

which they have been submitted. The Commission may, after each vote on a motion or draft resolution, decide whether to vote on the next motion or draft resolution.

Rule 45

If, when only one person or member is to be elected, no candidate obtains in the first ballot the majority required, a second ballot shall be taken, which shall be restricted to the two candidates obtaining the largest number of votes. If, in the second ballot, the votes are equally divided, and a majority is required, the Chairman shall decide between the candidates by drawing lots.

Rule 46

If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.

X. Subsidiary bodies

Rule 47

The Commission may set up such sub-commissions and other subsidiary bodies as it deems necessary and define their composition and their functions.

Rule 48

Unless otherwise decided by the Commission, each sub-commission and other subsidiary body shall elect its own officers.

Rule 49

The rules of procedure of the Commission shall apply to the proceedings of the sub-commissions and other subsidiary bodies in so far as they are applicable.

XI. Oral and Written Statements

Rule 50

The Commission may at its discretion invite or admit representatives of Governments or organizations or private individuals to submit oral or written statements. Requests for oral hearings shall contain an indication of the subject or subjects on which the applicant desires to express his views.

Rule 51

The Commission may refer to a sub-commission for examination and recommendation such requests to present oral statements as it deems advisable.

Rule 52

The Commission, in consultation with the Secretariat, shall in each case decide the time and place of the hearing of any person from whom it may decide to receive an oral statement. The Commission may request any person to submit his statement in writing.

Rule 53

The Commission may limit either the number of persons desiring to present an oral statement or the time to be allowed to any such person.

Rule 54

A sub-committee or a subsidiary body set up by the Commission enjoys such rights as accorded to the Commission under rules 50-54 unless the Commission decides otherwise.

XII. Amendments and Suspensions

Rule 55

These rules of procedure may be amended or suspended

by decision of the Commission taken by a majority of the members present and voting.

ANNEX 17

Letter dated 22 June 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India (S/AC.12/10)

22 June 1948

I have the honour to refer to your message which was presented to the President of the Security Council on 5 June 1948 and to the President's reply of 9 June 1948 with particular reference to your request for information on the point or points on which the Commission for India and Pakistan wishes to confer with your Government.

The Commission is proceeding to the Indian sub-continent with the most sincere desire to be of real service to your own as well as to the Pakistan Government for the settlement of the situation in the State of Jammu and Kashmir. With regard to its further dispositions, the Commission has reserved its decision.

On behalf of the Commission, I wish to repeat the assurance given to you by the President of the Security Council that the Commission's only consideration will be the achievement of a peaceful settlement and the promotion of friendly relations between the Governments of India and Pakistan.

The Commission is confident that it will receive your Government's cordial co-operation and assistance.

(Signed) Ricardo J. Sirl
Chairman of the Security Council
Commission for India and Pakistan

ANNEX 18

Cablegram dated 26 June 1948 from the Prime Minister for External Affairs of the Government of India to the Chairman of the Commission (S/AC.12/13)

New Delhi, 26 June 1948

I have received Your Excellency's three telegrams dated 22 June 1948.

My Government note that the Commission is coming to the Indian sub-continent with the most sincere desire to be of real service to them as well as to the Pakistan Government for the settlement of the situation in Jammu and Kashmir and that, as regards its further dispositions, the Commission has reserved its decision. As was stated in my telegram to the President of the Security Council, the Government of India will be glad to confer with the Commission when it arrives in Delhi. We shall also give what assistance we can to the Commission's representative in securing residential and office accommodation for the Commission and its staff. We have not yet been told, however, what points the Commission would wish to discuss with us and should be glad if this information could be supplied urgently.

As regard the Commission's request that my Government nominate a liaison representative in terms of paragraph 16 of the Security Council's resolution of 21 April, I wish to inform you that my Government cannot reach any decision on this recommendation of the Council until after they have conferred with the Commission. Arrangements will be made, however, for a senior officer to maintain liaison between the Government of India and the Commission during the latter's stay in New Delhi.

(Signed) Jawaharlal Nehru
Prime Minister and Minister
for External Affairs,
Govt. of India

ANNEX 19

Letter dated 1 July 1948 from the Chairman of the Commission to the Prime Minister and Minister for External Affairs of the Government of India
 (S/AC.12/16)

1 July 1948

I have the honour to acknowledge receipt of your

esteemed communication of 26 June 1948 and to express the appreciation of the Security Council Commission for India and Pakistan of the assurances contained therein.

The Commission has observed your desire for information regarding points which it will wish to discuss with you upon its arrival in New Delhi. The Commission is proceeding to India and Pakistan with a view to a peaceful settlement of the situation in the State of Jammu and Kashmir, having reserved a decision regarding its further dispositions.

In the course of its work it desires to confer with your Government regarding the various factors which may affect this situation.

The Commission confidently expects to explore these subjects with your Government and with the Government of Pakistan to a constructive and mutually satisfactory conclusion.

(Signed) Ricardo J. Siri
Chairman of the Commission

ANNEX 20

Letter Dated 8 July 1948 From the "Azad Kashmir Government" to the Chairman of the Commission
(S/AC.12/Info.3)

Trarkhel, 8 July 1948

The Azad Kashmir Government have followed with interest the proceedings of the Security Council and of its Commission with regard to the State of Jammu and Kashmir. They welcome and are in sympathy with all efforts to find a peaceful and honourable settlement of this problem. It is, however, a matter of surprise and regret to them that, while the Security Council gave a very full hearing to the representatives of India and Pakistan and listened to a long statement from Sheikh Mohammad Abdullah, the Head of the Emergency Administration set up by the Maharajah of Kashmir, no opportunity was afforded to the representative fo

the Azad Kashmir Government to place their point of view before the United Nations. As the Government of Azad Kashmir were, and still are, in control of more than half the area of Jammu and Kashmir, the failure of the Security Council to grant a hearing to the representative of the Azad Kashmir Government was a serious injustice to the people of Jammu and Kashmir. We earnestly hope that you and the members of the Commission will not repeat the mistake of the Security Council, and that you will take the earliest opportunity to visit Azad Kashmir to see with your own eyes the havoc wrought by the Indian Army and the heroic struggle of our people, and to discuss with our representatives ways and means to bring to a speedy end this tragic state of affairs.

I would like, meanwhile, to draw your attention to some of the basic points with regard to Jammu and Kashmir which must be kept in view if a peaceful and lasting settlement is to be achieved.

The Jammu and Kashmir State has an area of 84,471 square miles. Western Pakistan adjoins it on the west, south and south-east, except for a small part of the Boundary which is shared with Gurdaspur District of the Indian Union. All the natural outlets of Kashmir pass through Pakistan, with which the majority of the people of Jammu and Kashmir are bound by strong economic, cultural, social and religious ties.

For administrative purposes, the State of Jammu and Kashmir is divided into three provinces, namely : the Jammu Province (consisting of Jammu, Kathua, Udhampur, Reasi and Mirpur districts), the Kashmir Province (consisting of Baramulla, Anantnag and Muzaffarabad districts), and the Frontier Province (consisting of the Ladakh and Astore district and Gilgit (leased area). Besides this, there are the Poonch and Chenani *Jagirs*, which are sometimes included in Jammu Province for statistical purposes.

At present almost the whole of the Frontier Province, most of Poonch and the districts of Muzaffarabad and Mirpur are under the control of the Azad Kashmir Government. Our forces are battling against overwhelming odds to liberate the remaining areas from the occupation of the Indian invaders.

According to the census of 1941, Jammu and Kashmir

had a total population of 4,021,616 consisting of 3,101,247 Muslims and 920,369 non-Muslims. In other words, in 1941 Muslims constituted 77.11 per cent of the total population of Jammu and Kashmir. They had a clear majority in every province of the State, ranging from a little over 60 per cent in Jammu Province to over 93 per cent in Kashmir Province. On the other hand, the Hindus (including the scheduled castes) constituted a little over 20 per cent and the Sikhs 1.64 per cent of the total population of Jammu and Kashmir.

It would be reasonable to assume that there was no marked change in the communal composition of the population until August 1947, when the Maharajah of Kashmir embarked on the extermination and forcible expulsion of a large number of his Muslim subjects.

I do not propose to trouble the Commission with the history of the Dogra regime in Jammu and Kashmir, and of the repeated efforts of its people to overthrow their tyrannical rulers. As is well known, Kashmir was sold by the British to the ancestor of the present Maharajah in 1846 for a sum of 7.5 million rupees, and the Government of the country, ever since then, have been characterized by their autocracy, oppression and religious intolerance. The army and the police enjoyed vast powers and the administration, both civil and military was, by and large, in the hands of the Hindus, who also dominated the Court. The mass of the people lived in poverty and misery, and their efforts at emancipation were brutally put down by the Dogra military assisted at times, as in 1931, by British bayonets.

Organized political activity within Jammu and Kashmir had its beginning in the twenties of this century, and was Muslim in origin. In 1931, it crystallized itself into the Muslim Conference, an organization whose leaders and workers are now either languishing in the jails of Sheikh Abdullah or are the backbone of the Azad Kashmir Government's movement of liberation. In 1938, when Mr. Gopalaswami Ayyangar (leader of the Indian delegation to the Security Council) was the Prime Minister of Kashmir, seven of the twenty members of the Working Committee of the Muslim Conference, with Sheikh Abdullah at their head, founded a separate organization

known as the National Conference.

Thus there are two principal political parties in Jammu and Kashmir. There is the Muslim Conference, under the able leadership of Chowdhury Ghulam Abbas, which enjoys the support of the vast majority of the Muslims and Kashmir. The other is the National Conference led by Sheikh Mohammed Abdullah, who has been a paid agent of the Indian National Congress for many years, and who has been nominated by the Maharajah as Prime Minister at the instance of the Government of India. It is necessary to emphasize this fact, in view of the claims frequently advanced by, and on behalf of, Sheikh Abdullah that he represents the majority of the people of Kashmir. It should be remembered that the only time Sheikh Abdullah's party was returned to the State Assembly was on the Muslim Conference ticket, and that he has never fought or won any election on the National Conference ticket. His elevation to the post of Prime Minister is due solely to nomination by the Government of India and the Maharajah, and is not the result of a democratic election either by the people or by the State Assembly. The fact that Sheikh Abdullah continues to keep in jail thousands of Muslim Conference leaders and workers, and that he is fighting shy of a fair and impartial plebiscite under the supervision and control of the United Nations, is sufficient to expose the hollowness of his claim to be the representative of the people of Jammu and Kashmir.

During the four months that the Kashmir question was debated in the Security Council, from January to April 1947, the Security Council had most elaborate accounts of the manner in which the Maharajah of Jammu and Kashmir acceded to India, of the uprising of his Muslim subjects throughout the State, and of the attempt of the Kashmir Government to suppress them with the help of the armed forces of India. There are certain facts, however, which are of sufficient importance of merit repetition.

Under section 9 of the Indian Independence Act 1947, which brought into being the Dominions of India and Pakistan, British paramountcy over the Indian States lapsed and they became free to accede to either Dominion. Being a

Hindu, the Maharajah of Jammu and Kashmir was inclined to accede to India and carried on secret negotiations with the Hindu leaders of India. The majority of the Maharajah's subjects, however, being Muslims, were naturally in sympathy with Pakistan, and favoured accession to that Dominion. Pakistan Day was celebrated in several places, and public demonstrations were held demanding accession to Pakistan. The Maharajah's Government attempted at first to crush the pro-Pakistan movement with the help of their police and military, but when these proved insufficient, Indian soldiers in plain-clothes and trained Sikh and Rashtriya Swayam Sewak Sangh assassins began to pour into the Jammu Province and Poonch. These development took place in August 1937, long before the so-called invasion of the Kashmir valley by tribesmen. The oppressed people of Jammu and Kashmir fought back with great tenacity and heroism, and received a limited amount of assistance from their relatives and friends from across the borders of Pakistan. The Maharajah of Kashmir thereupon came out into the open, declared his accession to India against the expressed wishes of the majority of his subjects, and so paved the way for the forcible occupation of the State by the Indian Army.

The subsequent story is too well-known to be told in detail. While the Kashmir question was being discussed by the Security Council, the Indian Army was engaged in ravaging the fair valleys of Jammu and Kashmir, destroying villages and towns by indiscriminate air bombing, killing and maiming thousands of defenceless men, women and children, and compelling thousands of others to seek refuge in Pakistan. It is impossible to form an accurate estimate of the number of Muslims killed in the fighting, or murdered in cold blood. The figure must run into hundreds of thousands. We know, on the other hand, that the number of Muslim refugees who have poured into Azad Kashmir territory and Pakistan from the areas occupied by the Indian armed forces amount to nearly half a million. The fight, however, goes on, and the people of Kashmir are determined never to lay down their arms until every inch of Kashmir soil is liberated.

I went to New York early in January 1948, with the aim

and object of placing my country's case before the United Nations. I wrote a number of letters to the President of the Security Council and the Secretary-General of the United Nations, but failed to receive a formal hearing. The Azad Kashmir Government, therefore, do not consider themselves bound by the proceedings of the Security Council, and emphatically repudiate the Security Council's resolution of 21 April 1948. My Government's objections to this resolution are many, and will be discussed in detail when the Commission visits our country. I might, however, indicate that our main objection is that the resolution utterly fails to provide the conditions under which a fair and impartial plebiscite could be carried out. The detested Indian Army and the fascist Government of Sheikh Abdullah have been left in full control, and the Plebiscite Administrator will be powerless to ensure that people may vote free from harassment and fear of reprisals.

We will be glad to discuss with the Commission the conditions on which the Azad Kashmir Government could agree to participate in the plebiscite and be bound by its results. Some of these have already been mentioned in the statements made from time to time by the Quaid-i-Millat Chowdhury Ghulam Abbas, myself and my colleagues. Others would have to be worked out in the light of the conditions now obtaining and future developments. The principal conditions are, however, enumerated below :

- (a) The Indian armed forces, the Sikh and Rashtriya Swayam Sewak Sangh assassins must be completely withdrawn;
- (b) Military and police forces required for internal security and the maintenance of law and order should be raised locally, and be under the control of the Plebiscite Administrator until the plebiscite is over;
- (c) A provisional government should be set up which would reflect the will of the majority of the people. As the Muslim Conference enjoys the confidence of the vast majority of Muslims of Jammu and Kashmir, who constitute nearly 78 per cent of the State's

population, it should assume the main responsibility for forming the provisional government, and should provide the Prime Minister. We would welcome the cooperation of other political parties, but I would like to make it perfectly clear that, under no circumstances, would the representatives of the Muslim Conference and the Azad Kashmir Government agree to the continuance as Prime Minister of Sheikh Abdullah, who has been playing the role of a quisling and is a traitor to his own country;

- (d) If a popular government cannot be immediately established, we would agree to the setting up of a completely neutral administration under the supervision and control of the United Nations Commission until the plebiscite is over;
- (e) All political prisoners must be released, and all political parties granted the fullest freedom to propagate their views and ideas;
- (f) All State employees who have been dismissed since 15 August 1947 because of their alleged sympathies for Pakistan should be re-instated;
- (g) The Commission should ensure the restoration and rehabilitation of all residents of Jammu and Kashmir who have left, or who have been compelled to leave the State since August 1947;
- (h) The Plebiscite Administration should have under its full and effective control, not only the armed forces and the police stationed within the country but also the administrative and judicial machinery, and should thus be in a position to ensure a free and impartial plebiscite;
- (i) The future constitution of the State should be decided by its own people, in accordance with recognized democratic methods.

The Azad Kashmir Government feel that these are the minimum conditions which must be satisfied before they could commit themselves and their people to the solution proposed by the Security Council. The conditions suggested are, in our view, eminently reasonable and are in conformity with the

statements of almost all the members of the Security Council in the early stages of its debate. I must emphasize that the Azad Kashmir Government will not accept any settlement to which they are not a party, and that Pakistan, though keenly interested in the future of Jammu and Kashmir, cannot bind the Azad Kashmir Government or commit them to a course of action without their previous approval.

I trust that I have succeeded in giving you and your colleagues a general picture of the developments in our country as they appear to us, and the fundamental basis on which the solution should be sought.

I am to express the hope that the Commission will be able to accept our invitation to visit Azad Kashmir at an early date, and that we shall thus be able to assist in the working out of an honourable and lasting settlement.

(Signed) Sardar Mohammad Ibrahim Khan
President, Azad Kashmir Government

ANNEX 21

Report Made by Sir Girja Bajpai, Representative of the Government of India, on his Statement Before the Commission at its 13th Meeting on 13 July 1948 (S/AC.12/Info.2)

14 July 1948

Mr. Vellodi and I met the United Nations Commission yesterday at 4.30 p.m. at Faridkot House. The meeting took place at the Commission's request. Besides the Chairman and members of the Commission, the alternates, the secretaries and other members of the staff were present.

The Chairman, Mr. E. Graeffe, welcomed us on behalf of the Commission and requested me to make a statement on the Kashmir issue. I thanked the Commission for its welcome and expressed the hope that the arrangements that the Government of India had made for its stay in Delhi had proved satisfactory. I added that, though there might be differences between the Council's approach to the Kashmir issue and

ours, the Government of India were anxious that the members of the Commission should have all the courtesies and hospitality to which, as representatives of the United Nations, they were entitled.

Turning to Kashmir, I said that the point of view of the Government of India had been placed repeatedly, and at length, before the Security Council. I assumed that men of the experience and industry of the members of the Commission and studied the records of the proceedings of the Security Council. Nevertheless, since human memories were apt to be short and, in these dynamic times, apt to be crowded with events, I would readily give the Commission a short *resume* of the Government of India's case.

Before dealing with Kashmir specifically, however, I said that I should like to deal with a delusion, widely held, and a fiction, equally widely believed in Pakistan, that India was determined to destroy Pakistan. This belief had actually been expressed in the form of a charge against the Government of India by the Foreign Minister of Pakistan. Since such propaganda as had been done in support of this belief was likely to influence the thinking of men, it seemed necessary to state the truth.

Had India desired to destroy Pakistan, those now in authority in India need have done no more, before Pakistan was created by the partition of India, than to have opposed partition. Though many in India disliked partition, and disliked it intensely, they had agreed to it in order to bring to India political freedom and the opportunity for its leaders to apply themselves to constructive national tasks. Far from there being any desire to destroy Pakistan, India was most eager to live on terms of friendship and peace with its new neighbour. Indeed, after the experience that we had of the interim Government, which came into being in September 1946, India's one anxiety was to avoid impending its own evolution by any kind of union with Pakistan even if Pakistan desired such union.

The Security Council had been informed that we had already paid to Pakistan Rs. 75 crores and, in accordance with the terms of the partition, done all that we could to deliver

to it what was due in the way of stores, including military stores. This money and the military stores handed over to Pakistan were being used against us in Kashmir. In other words, we had supplied to Pakistan the sinews of war for waging war against us, if Pakistan were so minded. This, indeed, would be a strange means of encompassing Pakistan's destruction ! The Commission must, as reasonable men, judge for themselves what truth there was in what I had already described as a delusion and a fiction.

I next took up the issue of Kashmir specifically. I said that we had been accused of obtaining the accession of Kashmir by force and fraud. The Commission must be aware that, after the transfer of power to India and Pakistan on 15 August 1947, each Indian State which had previously had treaty relations with the Crown became free to accede to India or to Pakistan. Kashmir had approached both us and Pakistan with proposals for a standstill agreement. Pakistan had entered into such an agreement. Aware of the intricacies of the position of Kashmir, we had not acceded to Kashmir's request for a standstill agreement. Further, there was no iota of evidence to suggest that, before the invasion of Kashmir by the tribesmen created an unprecedented situation, we had made any attempt to obtain the accession of Kashmir. Where, then, was the evidence in support of the change that accession had been obtained by fraud ?

As regards force, the position was that, from September, we had heard of incursions into Jammu and Kashmir State from the Pakistan border. On 24 October, we received news of the invasion of the Kashmir valley by tribesmen. The facts of this invasion had already been reported to the Security Council and must be known to the members of the Commission. The invasion was one by barbaric hordes who respected neither life nor honour. With them, they brought fire and sword to the inhabitants of the peaceful valley of Kashmir. Faced with this menace to the State's very existence, the Government of Jammu and Kashmir State, as also the leader of the most representative popular party, the National Conference, appealed to the Government of India for military aid and also asked that the State be allowed to accede to

India. Both requests were accepted. The accession took place on 26 October; India's troops landed in Kashmir the following morning.

As regards the military aid that India rushed to Kashmir, this was not only in discharge of a constitutional obligation which it undertook when it accepted the accession of Kashmir; it was also in response to a moral obligation, namely the obligation of every civilized nation to protect the life, honour and territory of a neighbour which had been suddenly attacked and whose destiny the perpetrators of this unprovoked aggression sought to determine by methods practised by gangsters. On both sides of the border, communal passions were at fever heat at this time. Those who were attempting to coerce Kashmir into accession to Pakistan were also raising the cry, "On to Delhi". Had they succeeded in their aim in Kashmir, India would have been the next victim. India had, therefore, sent its forces to Kashmir under the triple obligation of a constitutional and a moral duty to a neighbour and friend and the obligation of self-defence.

But, though India had accepted the accession of Jammu and Kashmir, it had voluntarily declared to the world that, once peace was restored the question to India or to Pakistan would be settled by the freely expressed will of the people of the State, by means of a plebiscite under neutral auspices such as those of the United Nations. This offer of a plebiscite had been made, not to please Pakistan but in conformity with the declared policy and principle of the Government of India that, in these people of a State, the will of the people should prevail.

We had approached the Security Council, at the beginning of the present year, with the request that Pakistan, which was aiding and abetting the raiders who were invading Kashmir, should be asked to withdraw this aid. The forms in which the raiders were being helped had been clearly stated in our complaint. The action that we desired the Council to take, namely to require Pakistan to stop this aid immediately, had been equally clearly stated. In the four months' debate that had followed, the issue raised by us had got lost in a miasma of dialectics. I added that I said this in no spirit of disrespect to the Council but merely stated a fact.

In the resolution which the Council had adopted on 21 April, there was no mention either of Pakistan's complicity in the fighting in Kashmir or of its obligation to put an end to this complicity immediately.

Since the Council had passed its resolution, a great change had occurred in the situation. Our troops in Kashmir were no longer-fighting tribal raiders—their numbers had greatly diminished — or the insurgents who, it was said, had risen in revolt against the Government of the Maharajah in order to win their liberty. Our troops were fighting the regular armed forces of Pakistan on all fronts in and around Jammu and Kashmir State. We had abundant evidence of this. If the Commission so desired, this evidence would be tendered by our military advisers. What was in progress today was an undeclared war between India and Pakistan. It was for the Commission to judge whether, in the face of these facts, it was India that could be accused of using force to secure the accession of Jammu and Kashmir, or Pakistan.

Continuing, I said that I had referred earlier to the moral motive which had inspired us to go to the rescue of Jammu and Kashmir. It was to this, the moral issue, that we attached the highest importance; unfortunately, it was the moral issue which the Security Council had ignored. Either our charge of Pakistan's complicity, now complicity in the shape of an undeclared war against us, was true or untrue. If it were untrue, we were prepared to face the obloquy of condemnation of the civilized world. On the other hand, if it were true, then the Council of the United Nations was under an obligation to demand that Pakistan should cease hostilities against us deny all aid to the raiders and withdraw its own troops as well as the outsiders from the State territory. We had nothing to hide and there was nothing of which we were ashamed, or need be ashamed. But, I repeated, we attached the highest importance to the declaration of Pakistan's guilt and, if this guilt were proved, to Pakistan being directed to do what, seven months ago, we had asked the Council that Pakistan should be asked to do. Until this matter was settled, there could be no question of discussing the details of a plebiscite.

Continuing, I reminded the Commission that we had offered a plebiscite on the issue of accession to India or Pakistan, spontaneously and voluntarily. We had made the offer in the hope that the Kashmir issue would be settled peacefully and quickly. This had not happened. The military campaign, with the increasing participation of Pakistan, had assumed greater violence. What began in unprovoked violence continued in mounting violence and the present prospects were that force alone would decide the issue.

If the future of Jammu and Kashmir was to be determined by the arbitrament of the sword, then, without in any way wishing to utter a threat, or use the language of menace, I should like the Commission, as realists, to recognize that the offer of plebiscite could not remain open. If Pakistan wanted a decision by force and that decision went against Pakistan, it could not invoke the machinery of the United Nations to obtain what it had failed to secure by its chosen weapon of force. This did not mean that the Government of India would in any way coerce the people of Kashmir. After hostilities had ceased and peace had been restored, the people of Kashmir would be free to determine both the form of their internal Government and the nature of their relations with India, but Pakistan could have no lot or part in this process.

Thus I concluded my statement. I offered to answer questions but none was asked. The Chairman thanked me for my clarification of the Government of India's position and asked that Mr. Vellodi and I should meet the Commission again this afternoon at 4.30 p.m.

ANNEX 22

**Resolution adopted by the Commission at its 15th meeting,
held on 14 July 1948 in Faridkot House, New Delhi
(S/AC.12/17)**

*The United Nations Commission for India and Pakistan,
In a spirit of good will and impartiality,*

**Confident of the desire of the Governments of India and
Pakistan to facilitate in all ways possible its efforts to bring**

about a peaceful settlement of the situation in the State of Jammu and Kashmir, and,

In order that there may be created an atmosphere which will encourage the cessation of hostilities,

Urges the Governments of India and Pakistan to take immediately those measures within their power which can improve the situation and to refrain from making or causing to be made any statements which might aggravate the situation.

ANNEX 23

Communication dated 17 July 1948 from the Government of Pakistan to the Chairman of the Commission concerning its resolution (S/AC.12/17) of 14 July (S/AC.12/18)

New Delhi, 17 July 1948

I have the honour to communicate the following message from the Government of Pakistan, in reply to your letter dated 14 July 1948 :

"Government of Pakistan have noted the Commission's resolution of 14 July and wish to assure the Commission that they are prepared to take all measures within their power which can improve the situation and shall continue to refrain from making or causing to be made any statements which might aggravate the situation."

(Signed) M. Ismail
High Commissioner,
Government of Pakistan

ANNEX 24

Letter dated 15 July 1948 from the Government of India to the Chairman of the Commission concerning its resolution (S/AC.12/17) of 14 July (S/AC.12/19)

15 July 1948

I have the honour to refer to your letter to me dated 14

July in which you enclosed the text of a resolution adopted by your Commission at its 15th meeting, held on 14 July 1948, in Faridkot House, New Delhi. As desired by Your Excellency, the resolution was submitted to the Honourable Pandit Jawaharlal Nehru, Prime Minister of India and Minister for External Affairs. The Prime Minister desires me to request Your Excellency to convey the following reply to the Commission :

"I have carefully considered the resolution of the Commission which, in substance, corresponds to a resolution adopted by the Security Council of the United Nations on 17 January 1948, in the course of which the Government of India were asked to take immediately all measures within their power calculated to improve the situation and to refrain from making any statement...which might aggravate the situation. In my reply to the Council I stated : 'The Government of India have never faltered either in their desire or in their endeavour to improve the situation'. This is still the position of my Government and the Commission may rest assured that, consistent with their rights under international law and the Charter of the United Nations, the Government of India will continue to endeavour to give effect to the Commission's request."

(Signed) G.S. Bajpai
Secretary-General
Government of India

ANNEX 25

**Resolution adopted by the Commission at its 19th
 meeting, held on 20 July 1948 in Faridkot
 House, New Delhi (S/AC.12/23)**

The Commission,

Having inquired of the Governments of India and Pakistan as to the possibility of a cease-fire agreement in the State of Jammu and Kashmir, and expecting their respective answers,

Asks the Secretary-General :

To appoint and send if possible at once a high-ranking officer to act as military adviser to the Commission and further to appoint officers and necessary personnel who would be ready to travel to the Indian sub-continent at a moment's notice in order to supervise the cease-fire if and when it is reached;

To inform the President of the Security Council of this request.

ANNEX 26

**Letter and memorandum dated 19 August 1948 from the
Minister for Foreign Affairs of Pakistan to the
Chairman of the Commission (S/AC.12/44)**

19 August 1948

I have the honour to refer to your letter of 13 August, forwarding the resolution adopted by the United Nations Commission at its 39th meeting and stating that this resolution is intended to present the principles which may serve as a basis of discussion. At our informal meeting on 14 August, you reiterated that the proposals contained in the resolution were only meant to serve as a basis of discussion, and you kindly offered to clarify and elucidate any points arising out of these proposals.

The Government of Pakistan have given their most serious consideration to the proposals made by the Commission, but regret that they are not in a position to indicate their views with regard to them without obtaining clarification of a number of important points. The matters with regard to which further elucidation is required are set out in the attached memorandum. It would be greatly appreciated if the Commission could provide the elucidation requested.

While reserving their views with regard to the proposals formulated by the Commission, the Government of Pakistan would like to submit certain observations with regard to the Commission's approach to the question of a cease-fire. As the Commission is aware, the Pakistan representatives, in their

discussions with the Commission during its stay in Karachi from 31 July to 13 August, put forward the view that the proposals regarding a cease-fire should be completely divorced from all other proposals. In the view of the Pakistan Government, the truce proposals contained in part II of the Commission's resolution are so closely interlinked with the final solution of the Kashmir question that it is impossible to separate the one from the other. This was fully recognized by the members of the Security Council who sponsored the resolution of 21 April. Senator Austin explained that the resolution had a certain unity and all its parts were inter-related. For example, the proposal with regard to the withdrawal of tribesmen could only be implemented if there was satisfaction in respect of the reconstitution of the State Government and the creation of other conditions in which the accession of Jammu and Kashmir to India or Pakistan could be determined by means of a free and impartial plebiscite.

It is the considered opinion of the Pakistan Government that there are only two practical ways of dealing with the Jammu and Kashmir situation, namely :

- (1) To bring about a cease-fire pure and simple such as is in part I of the Commission's resolution; or
- (2) To attempt at the very start a complete and final solution of the entire Jammu and Kashmir question.

The Pakistan Government regret to note that the Commission has not adopted the first alternative, which would have put a stop to the fighting immediately, and, in the calmer atmosphere thereby created, would have greatly improved the chances of a final settlement being reached. The result of extending the scope of the resolution beyond part I must inevitably be to bring the whole field of the dispute under immediate discussion and thereby to delay the attainment of a cease-fire until a final solution of the whole problem can be agreed upon.

(Signed) Zafrullah Khan
Minister for Foreign Affairs
and Commonwealth Relations,
Government of Pakistan

APPENDIX

**Memorandum Regarding points in the Commission's
Resolution of 13 August 1948 Requesting Further
Elucidations**

Preliminary

It has been explained to the Commission that it is only the Azad Kashmir Government that can authorize the issue of cease-fire orders to their own forces. The Pakistan Government wish to be informed what steps the Commission has taken or proposes to take to secure the agreement of the Azad Kashmir Government to its proposals.

Preamble to the Commission's resolution

The preamble to the resolution of the Commission states that certain conditions are essential to the implementation of the Commission's endeavours "to assist the Governments of India and Pakistan in effecting a final settlement of the situation". The Government of Pakistan are unable to appreciate the exact significance of this statement. The preamble to the Security Council's resolution of 21 April 1948 (S/726) clearly affirms the desire of both India and Pakistan "that the question of accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite", and instructs the Commission to "place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission", and recommends certain measures to the two Governments as being in its opinion "appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan."

It is thus clear that the dispute between the two Dominions relating to Jammu and Kashmir is "whether the State of Jammu and Kashmir is to accede to India or Pakistan" and that the settlement of this dispute is to be brought about by means of a free and impartial plebiscite. It is presumed, therefore, that the expression *a final settlement of the situation* employed by the Commission in the preamble to its resolution means in the words of the Security Council the creation of "proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan." If the expression "a final settlement of the situation" has any implication, direct or indirect, whether falling short of or going beyond the quotation set out from the Security Council's resolution, the Government of Pakistan wish to be apprised of it.

Part I of the Commission's resolution

The Pakistan Government are unable to appreciate the exact significance of the opening words of paragraph D of part I of the resolution. If and when a cease-fire has been arranged, the Commission will be under the inescapable necessity of appointing military observers for the purpose set out in the paragraph. The number, duties, functions and posting of these observers will, no doubt, be at the discretion of the Commission. The Pakistan Government wish to be certain that the Commission is not in any doubt that if a cease-fire order is agreed to its observance will inevitably require supervision by neutral military observers appointed by and acting under the authority of the Commission.

Part II of the Commission's resolution

The discussions before the Security Council on the subject of Jammu and Kashmir proceeded on the basis that India did not desire a military solution of the problem, but would be content to abide by the results of a free and impartial plebiscite. It was recognized by the Security Council that the fighting in Jammu and Kashmir had flared up as the result of

military and other repressive measures adopted by the ruler against his subjects, and that the only method of securing a cessation of the fighting was to create conditions which would satisfy everybody concerned that the question of accession of the State to India or Pakistan would be settled on the basis of a free and impartial plebiscite. While the Security Council was still engaged on the consideration of the Kashmir case, India was steadily building up its armed forces in Jammu and Kashmir. This building-up process did not cease on 21 April 1948, but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby causing a material change in the situation. This offensive action has continued ever since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir, thus presenting the United Nations Commission with a *fait accompli*. This situation not only put in jeopardy the entire population of the areas under the Azad Kashmir Government, and led to a big influx of refugees into Pakistan, but also constituted a direct threat to Pakistan's security. It was this which compelled the Government of Pakistan to move their troops into certain defensive positions.

Paragraph A, 1 of part II of the Commission's resolution states that the presence of Pakistan troops in the territory of the State constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council. This is obviously a one-sided and inadequate description, since, as pointed out above, the build-up of India's forces, and their launching an all-out offensive had already materially changed the situation. Even as a factual statement, apart altogether from the feasibility or otherwise of the proposal based upon it, the paragraph should have included the facts mentioned above which necessitated the presence of Pakistan troops in Jammu and Kashmir. The Government of Pakistan are unable to appreciate the Commission.

Without at all implying that the proposals set out in the resolution of the Commission could form the basis of discussion, the Pakistan Government felt that the possibility of the

truce being broken by the Government of India cannot be ruled out. It would materially assist the Pakistan Government in their appreciation of the various proposals contained in the resolution if the Commission would be so good as to take the Pakistan Government into its confidence as to the measures or guarantees which the Commission may have in mind to safeguard the security of Pakistan and the population of the areas under the control of the Azad Kashmir Government against any subsequent aggressive action by the Government of India and of the Sikh and Rashtriya Swayam Sewak Sangh volunteer bands. In particular, the Pakistan Government would be glad to know whether the Commission intend to secure the services of an international or neutral force for this purpose and, if so, what the strength of such a force would be.

Paragraph A, 2 seeks the agreement of the Pakistan Government to the using of their best endeavours to secure the withdrawal from the State of tribesmen, etc., who have entered the State for the purpose of fighting. The Commission is no doubt aware that the Security Council was convinced that it would not be possible to persuade the tribesmen and other sympathizers of the Azad Kashmir Government to withdraw unless they were satisfied as to the security of the Muslim population of the State and the establishment of conditions for a free and impartial plebiscite. The Government of Pakistan are unable to discover any proposals in the resolution of the Commission designed to secure and guarantee these conditions. Would the Commission kindly indicate what measures it proposed to adopt to convince the tribesmen and other elements concerned that these conditions have been or will be established, and that no danger or prejudice would result to the Muslim population of the State even if the terms of the truce were subsequently broken by the Government of India?

It has been explained to the Commission that a large number of Sikh and Rashtriya Swayam Sewak Sangh volunteer bands have entered the State since 15 August 1947, and have been operating in the areas occupied by the Indian armed forces, committing all kinds of atrocities upon and terrorizing the Muslim population. There is no proposal in the resolution

of the Commission to the effect that such elements must withdraw from the State. The Pakistan Government wish to be informed what proposal the Commission has in mind in this connexion.

In paragraph A, 3 the Commission proposes that, pending a final solution, the territory at present under the control of the Azad Kashmir Government will be administered by that Government under the surveillance of the Commission. The Commission no doubt realizes that the population of this territory is almost wholly Muslim and is in full support of the Azad Kashmir Government. On the other hand, the majority of the population of the territory under the control of the Government of India is opposed to the regime established by the Government of India. The Government of Pakistan would wish to be enlightened as to the reasons which, while necessitating or rendering desirable the surveillance of the Commission over the Azad Kashmir Government in respect of the territories of the latter, would not with much greater force call for the surveillance of the Commission over the regime operating in the rest of the State. Since the Commission considers that it is in a position to take certain territories under its surveillance, there would appear to be no objection, in principle, to the Commission taking the whole of Jammu and Kashmir under its surveillance.

The Commission has asked for the withdrawal of Pakistan troops from Jammu and Kashmir, though these troops are in wholly Muslim areas and have been welcomed by the local population. On the other hand, the Commission is aware of the serious objections to the quartering of non-Muslim troops on a predominately Muslim population. The Government of Pakistan therefore wish to be informed of the reasons which necessitate the retention of any portion of India's armed forces in Jammu and Kashmir.

Assuming that a truce could be agreed upon on the basis of the Commission's proposals the Government of Pakistan would appreciate an indication from the Commission of the manner in which the Commission proposes, in accordance with the concluding portion of paragraph B, 1, to secure a synchronized and simultaneous withdrawal of the Pakistani

forces and the bulk of the Indian forces from the State.

The Pakistan Government wish to know whether the surveillance of the Commission over the territories of Azad Kashmir implies any control over the Azad Kashmir forces, which would under the Commission's proposals remain intact. If so, what control does the Commission contemplate exercising over the State forces, the local militia raised by Sheikh Abdullah and over any Indian armed forces that may be left in the State under the Commission's proposals?

The Security Council's resolution of 21 April 1948 contemplates the maintenance of law and order throughout the State with the aid of local forces. Does the Commission contemplate that any additional forces would be required for the maintenance of law and order in any part of the State? If so, the Pakistan Government would welcome an indication of the Commission's view whether it intends to call upon both India and Pakistan to provide such forces as contemplated in paragraph 5 of the Security Council's resolution of 21 April 1948.

The Security Council's resolution of 21 April 1948 sets out in paragraphs 11, 12 and 14 a number of conditions for the restoration of human and political rights, including the return of those who had left or been compelled to leave the State since 15 August 1947. The Pakistan Government wish to be informed whether paragraph B, 3 of the Commission's resolution is intended to cover and guarantee all these conditions from the moment a truce is agreed upon.

Part III of the Commission's resolution

The observations submitted in paragraph 2 above apply with equal force to part III of the Commission's resolution. The Government of Pakistan would welcome an elucidation of this part. It states that "the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people" and that the Government of India and the Government of Pakistan shall "enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured". It

may be pointed out that some of these conditions are set out in the Security Council's resolution of 21 April 1948. It is presumed that consultations between the two Governments and the Commission would be designed to secure the implementation of these conditions and the devising of any further conditions that may become necessary or may appear to be desirable.

The most important of the conditions agreed upon by the Security Council were that :

- (a) The Government of Jammu and Kashmir would be reconstituted so as to ensure that the major political groups in the State would share "equitably and fully in the conduct of the administration at the Ministerial level" (paragraph 6), and the interim administration so formed would, in the words of Senator Austin, be such as "would command the confidence and respect of all the people of the State and would be a symbol to the people on both sides that the Government of the State was officially neutral on this issue" of accession to India or Pakistan.
- (b) A Plebiscite Administrator would be appointed by the Secretary-General of the United Nations and would be vested with wide powers, including power of direction and supervision of State forces and police (paragraphs 7, 8 and 9).
- (c) The appointment of special magistrates to deal with certain types of cases (paragraph 10).

The Pakistan Government presume that the object of the concluding portion of part III of the Commission's resolution is to secure agreement on the implementation of these among other conditions of a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

ANNEX 27

Letter dated 27 August 1948 from the Chairman of the Commission in reply to the letter and

memorandum dated 19 August 1948 (S/AC.12/44) from
the Minister for Foreign Affairs of Pakistan
(S/AC.12/55)

27 August 1948

On behalf of the United Nations Commission for India and Pakistan, I have the honour to reply to your letter dated 19 August 1948 referring to the letter of the Chairman of the Commission of 13 August 1948, and enclosing a memorandum containing points of inquiry with regard to the Commission's resolution. The Commission, in the memorandum herewith enclosed, meets your requests for further elucidation on the points presented by you.

The Commission has noted your observations as to its approach to the question of cease-fire, and appreciates the point of view of the Pakistan Government that an unconditional cease-fire is indeed a desirable step. In fact, the Commission's activities during its early deliberations were directed along these lines, and earnest consideration was given to the issues involved. Mr. Lozano, Vice-Chairman of the Commission, travelled to Karachi in order to ascertain the points of view of the Government of Pakistan, while other members of the Commission were ascertaining the points of view of the Government of India in New Delhi. The presence of Pakistan troops in the State of Jammu and Kashmir, however, is a material change in the situation as considered by the Security Council in its resolution of 21 April 1948, which creates obstacles to the effective and immediate implementation of an unconditional cease-fire.

Once the Commission was apprised of the stipulations of the Government of Pakistan and the Government of India in respect of a ceasefire, it proceeded to draw up fair and equitable proposals which, it was felt, should meet with the approval of both parties. As a link between an unconditional cease-fire and a final settlement, which will necessarily be subject to negotiations, the Commission has recommended a truce agreement as set forth in part II of the resolution. The terms of this truce agreement, and the principles upon which

it has been conceived, without jeopardizing immediate cessation of hostilities, are intended to create a atmosphere favourable to consultations among the two Governments and the Commission in which a final and peaceful solution might be agreed upon.

The Commission sincerely hopes that the Government of Pakistan, as a step towards the satisfactory solution of the situation in the State of Jammu and Kashmir, and in the interest of furthering international peace and security; will find it possible to signify its acceptance of the Commission's resolution of 13 August 1948.

(Signed) *Josef Korbel*
Chairman

APPENDIX

Reply of the commission to the Pakistan Government's memorandum Regarding points in the Commission's Resolution of 13 August 1948

- (a) On 18 July 1948, during the interview between Mr. Alfredo Lozano and Sir Mohammed Zafrullah Khan, the latter emphasized that, in submitting the condition that the proposal for a cease-fire order should have the consideration or approval of the Azad Kashmir forces, his only aim was to ensure that their views be taken into account, whether by the appearance of representatives of the "Azad Kashmir" before the Commission or through the Pakistan Government as intermediary.
- (b) In answer to the questionnaire placed by the Commission before the Government of Pakistan on 4 August 1948, the Minister for Foreign Affairs stated that "the Pakistan Army is at present responsible for the over-all command...of Azad Kashmir forces."
- (c) During the expose made by the High Command of the Pakistan Army on 9 August 1948, it was stated

that the Azad Kashmir forces were operationally controlled by the Pakistan Army.

- (d) In view of these assurances, the Commission understands that the Government of Pakistan will ascertain and reflect the position of the Azad authorities in arriving at their decision with regard to the Commission's resolution of 13 August 1948.

The expression *a final settlement of the situation* does not fall short of, nor go beyond the terms of the Security Council resolution of 21 April 1948, and is in harmony with it. The Commission, however, is not committed to a rejection of a peaceful solution which might be agreed upon by the two Governments, provided that such solution reflects the will of the people.

The Commission is in no doubt that the observance of the cease-fire order will require neutral military observers. These observers will be appointed by the United Nations and will act under the authority of the Commission.

The Security Council resolution of 21 April 1948, which sets forth the terms of reference of the Commission, was adopted with cognizance of the presence of Indian troops in the State of Jammu and Kashmir. The presence of Pakistani troops in Jammu and Kashmir, however, constitutes a material change in the situation inasmuch as the Security Council did not contemplate the presence of such troops in that State, nor was it apprised thereof by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission's description in this respect is "one-sided and inadequate".

In drawing up the resolution of 13 August 1948, the Commission did not and could not proceed on the assumption that one or the other party would violate the truce. The implementation of the resolution presupposes good faith and co-operation between the two parties.

As the Government of Pakistan is aware, the United Nations does not have at its disposal an international force. The use of a neutral force has not been contemplated by the Commission. However, the Government of Pakistan will have noted that the resolution provides for neutral military observers

to be stationed where the Commission deems it necessary.

The Commission reaffirms its conviction that good faith and active collaboration on the part of both Governments are essential to the implementation of the resolution. Under the terms of the resolution, the Government of India is bound to assist local authorities in maintaining law and order in areas now occupied by Indian troops; further, the Government of India undertakes to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law, and order will be safeguarded and that all human and political rights will be guaranteed.

The Commission is convinced that confidence in the purpose and objectives of the resolution will be promoted by the appeals that the two Governments make to all concerned for the acceptance of the truce agreement will lead actually to consultation between the two Governments and the Commission to determine fair and equitable conditions whereby the free expression of the will of the people will be assured.

Pending the acceptance of the conditions for a final settlement, Indian forces, as provided for in part II, B, 2, will assist local authorities in the maintenance of law and order. Upon acceptance of the truce agreement, withdrawal of elements mentioned in the memorandum will be considered in the implementation of part III and under the provisions of the Security Council's resolution of 21 April 1948.

Surveillance of territories of the State of Jammu and Kashmir other than those now occupied by the Pakistan Army and forces under its control is not provided for in the resolution. The administration of such areas remains under the jurisdiction of the Government of the State.

A portion of the Indian armed forces will remain in the State of Jammu and Kashmir for the purposes indicated in part II, B, 2 of the resolution.

In accordance with part II, B, 1 of the resolution, the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission.

Synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission.

The Commission does not contemplate measures of control over forces remaining within the State of Jammu and Kashmir beyond the provisions of the resolution.

The Commission has not contemplated the use of forces for the maintenance of law and order other than those envisaged under the terms of its resolution of 13 August 1948.

Paragraph B, 3 of part II of the Commission's resolution which relates to the truce agreement, is not intended to deal with the questions raised in paragraphs 11, 12, and 14 of the Security Council's resolution of 21 April 1948. These questions, relating to the plebiscite, will logically arise in the implementation of part III of the Commission's resolution of 13 August 1948.

Part III of the Commission's resolution envisages that both Governments reaffirm their desire that the future status of the State of Jammu and Kashmir be decided in accordance with the will of the people, and that upon the acceptance of the truce agreement, their representatives enter into consultation with the Commission in order to establish the conditions under which the free expression of the will of the people will be assured.

ANNEX 28

Letter dated 1 January 1948 from the representative of India to the President of the Security Council (S/628)

[Original text : English]

New York, 1 January 1948

The Government of India have instructed me to transmit to you the following telegraphic communication :

Under Article 35 of the Charter of the United Nations, any Member may bring any situation whose continuance is likely to endanger the maintenance of international peace and

security to the attention of the Security Council. Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them, and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is therefore one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.

From the middle of September 1947, the Government of India had received reports of the infiltration of armed raiders into the western parts of Jammu Province of the Jammu and Kashmir State; Jammu adjoins West Punjab, which is a part of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum Valley road towards Srinagar, the summer capital of the Jammu and Kashmir State. Intermediate towns and villages were asked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got around them and burnt the power house at Mahora, which

supplied electricity to the whole of Kashmir.

The position on the morning of 26 October, was that these raiders had been held by Kashmir State troops and part of the civil population who had been armed, at a town called Baramulla. Beyond Baramulla there was no major obstruction up to Srinagar. There was immediate danger of these raiders reaching Srinagar, destroying and massacring large numbers of people, both Hindus and Muslims. The State troops were spread out all over the State and most of them were deployed along the western border of Jammu Province. They had been split up into small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officials had left the threatened area and the civil administration had ceased to function. All that stood between Srinagar and the fate which had overtaken the places *en route* followed by the raiders was the determination of the inhabitants of Srinagar, of all communities, and practically without arms, to defend themselves. At this time Srinagar had also a large population of Hindu and Sikh refugees who had fled there from West Panjab owing to communal disturbances in that area. There was little doubt that these refugees would be massacred if the raiders reached Srinagar.

Immediately after the raids into the Jammu and Kashmir State commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the Indian Dominion. (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. The Treaty relations ceased with the transfer of power on 15 August last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion.)

Events moved with great rapidity, and the threat to the Valley of Kashmir became grave. On 26 October, the ruler of the State, His Highness Maharajah Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State

should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organization in Kashmir, the National Conference headed by Sheikh Moammed Abdullah. The Conference further strongly supported the request for the State's accession to the Indian Dominion. The Government of India were thus approached, not only officially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.

"The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. It was imperative on account of the emergency that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a government capable of discharging it. But, in order to avoid any possible suggestion that India had utilized the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices.

"The Government of India felt it their duty to respond to the appeal for armed assistance because :

- “(1) They could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations;
- “(2) The accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State.

"The intervention of the Government of India resulted in saving Srinagar. The raiders were driven back from Baramulla to Uri and are held there by Indian troops. Nearly 19,000 raiders face the Dominion forces in this area. Since operations in the Valley of Kashmir started, pressure by the raiders

against the western and south-western border of the Jammu and Kashmir State has been intensified. Exact figures are not available. It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot and the abduction of women, continue. The booty is collected and carried over to the tribal areas to serve as an inducement to the further recruitment of tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100,000, have been collected in different places in the districts of West Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistani nationals, including officers of the Pakistan Army. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped, and transported to the territory of the Jammu and Kashmir State with the help, direct and indirect, of Pakistani officials, both military and civil.

"As already stated, the raiders who entered the Kashmir Valley in October came mainly from the tribal areas to the north-west of Pakistan and, in order to reach Kashmir, passed through Pakistan territory. The raids along the south-west border of the State, which had preceded the invasion of the valley proper, had actually been conducted from Pakistan territory, and Pakistan nationals had taken part in them. This process of transmission across Pakistan territory and utilization of that territory as a base of operations against the Jammu and Kashmir State continues. Recently, military operations against the western and South-western borders of the State have been intensified and the attackers consist of nationals of Pakistan as well as tribesmen. These invaders are armed with modern weapons, including mortars and medium machine-guns, wear the battle dress of regular soldiers and, in recent engagement, have fought in regular battle formation and are using the tactics of modern warfare. Man-pack wireless sets are in regular use and even mark V mines have been employed. For their transport the invaders have all along used motor vehicles. They are undoubtedly

being trained and to some extent led by regular officers of the Pakistan Army. Their rations and other supplies are obtained from Pakistan territory.

"These facts points indisputably to the conclusion :

- "(a) That the invaders are allowed transit across the Pakistan;
- "(b) That they are allowed to use Pakistan territory as a base of operations;
- "(c) That they include Pakistan nationals;
- "(d) That they draw much of their military equipment, transportation and supplies (including petrol) from Pakistan; and
- "(e) That Pakistan officers are training, guiding and otherwise actively helping them.

"There is no source other than Pakistan from which they could obtain such quantities of modern military equipment, training or guidance. More than once, the Government of India had asked the Pakistan Government to deny to the invaders facilities which constitute an act of aggression and hostility against India, but without any response. The last occasion on which this request was made was on 22 December, when the Prime Minister of India handed over personally to the Prime Minister of Pakistan a letter in which the various forms of aid given by Pakistan to the invaders were briefly recounted and the Government of Pakistan were asked to put an end to such aid promptly; no reply to this letter has yet been received in spite of a telegraphic reminder sent on 26 December.

"It should be clear from the forgoing recital that the Government of Pakistan are unwilling to stop the assistance in material and men which the invaders are receiving from Pakistan territory and from Pakistan nationals, including Pakistan Government personnel, both military and civil. This attitude is not only unneutral, but constitutes active aggression against India, of which the State of Jammu and Kashmir forms a part.

"The Government of India have exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan. But they have failed, and are in consequence con-

fronted with a situation in which their defence of the Jammu and Kakhmir State is hampered and their measures to drive the invaders from the territory of the State are greatly impeded by the support which the raiders derive from Pakistan. The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable. The presence, in large numbers, of invaders in those portions of Pakistan territory which adjoin parts of Indian territory other than the Jammu and Kashmir State is a menace to the rest of India. Indefinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. The Government of India have no option, therefore, but to take more effective military action in order to rid the Jammu and Kashmir State of the invader.

"In order that the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory; only thus could the invader be denied the use of bases and cut off from his sources of supplies and reinforcements in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under international law, to send their armed forces across Pakistan territory for dealing effectively with the invaders. However, as such action might involve armed conflict with Pakistan, the Government of India, ever anxious to proceed according to the principles and aims of the Charter of the United Nations, desire to report the situation to the Security Council under Article 35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan :

- "(1) To prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;
- "(2) To call upon other Pakistani nationals to desist from taking any part in the fighting in the Jammu

and Kashmir State;

"(3) To deny to the invaders : (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.

"The Government of India would stress the special urgency of the Security Council taking immediate action on their request. They desire to add that military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self-defence reserve to themselves the freedom to take, at any time when it may become necessary, such military action as they may consider the situation requires.

"The Government of India deeply regret that a serious crisis should have been reached in their relations with Pakistan. Not only is Pakistan a neighbour but, in spite of the recent separation, India and Pakistan have many ties and many common interests. India desires nothing more earnestly than to live with her neighbour-State on terms of close and lasting friendship. Peace is to the interest of both State; indeed to the interests of the world. The Government of India's approach to the Security Council is inspired by the sincere hope that, through the prompt action of the Council, peace may be preserved.

"The text of this reference to the Security Council is being telegraphed to the Government of Pakistan."

(Signed) P.P. Pillai
Representatives of India
to the United Nation

(Source : D.N. Document S/1100.)

(g) *Second Interim Report of the United Nations Commission for India and Pakistan*

Rapporteur : Mr. Alfredo Lozano (Colombia).

The Commission's first interim report (S/1100), dated 9 November 1948, accounts for its activities to 22 September

1948 when the Commission left the sub-continent for Geneva. It was then felt that the possibilities for further fruitful negotiations on the sub-continent were temporarily exhausted, and that personal contact was desirable with representatives on the Security Council as well as with representatives of the Governments of India and Pakistan who had left for Paris to attend the session of the United Nations General Assembly.

The Commission arrived in Geneva on 25 September 1948, held eighteen meetings, and, after having prepared its first interim report, proceeded to Paris to submit it to the Security Council.

The Commission held twenty-eight meetings in Paris, its first meeting taking place in the UNESCO building on 8 November 1948.

While in Paris, the Chairman and other members of the Commission had numerous individual conversations with the representatives of both Governments, who also, separately, conferred from time to time with the Commission as a whole. In order to open new approaches toward a solution, a basis was sought for an agreement on principles for a plebiscite in the State of Jammu and Kashmir, in furtherance of the objectives of the Commission's resolution of 13 August 1948.

On 19 November 1948, the Chairman of the Commission received an urgent communication from the Foreign Minister for Pakistan, concerning the military situation in the State of Jammu and Kashmir, which was transmitted to the President of the Security Council in a letter dated 22 November 1948 (annex 1), and a copy of which was furnished to the representative of India. The Security Council discussed the matter at its 382nd meeting on 25 November 1948, at which representatives of India and Pakistan explained their positions. On 28 November, the representative of India submitted a letter to the Chairman of the Commission dealing with the matters which had been raised in the communication from the Foreign Minister for Pakistan and discussed at the Security Council meeting of 25 November 1948. This letter was immediately transmitted to the President of the Security Council (annex 2).

In view of the immediate need for an independent

source of information upon the military situation in the State of Jammu and Kashmir, the Commission recommended urgently that a military adviser should be appointed, and proceed forth-with to the sub-continent, together with a suitable staff.

The Secretary-General was fortunate in obtaining the services of a Belgian officer, Lieut. General Maurice Delvoie, as Military Adviser. He arrived with a small staff on the subcontinent on 2 January 1949.

The interim report of the Commission was duly presented to the Security Council on 25 November 1948, and the Rapporteur announced that conversations were being pursued between the Commission and the representatives of the two Governments.

The President, in summing up the views of the members of the Security Council, assured the Commission first, that it could count on the Council's full support in the task of bringing about a peaceful settlement; and secondly, that the Council wished to endorse the appeal made by the Commission to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the current negotiations.

The Commission is glad to report that the conversations with the representatives of India and Pakistan continued to proceed favourably. On 22 December 1948 the Commission will be to submit to the representatives of India and Pakistan proposals (annex 3) which it hoped might be found "acceptable in their entirety" to both Governments.

Also, on 11 December, the Commission decided that Mr. Lozano (Colombia) and his alternate, Mr. Samper, should travel to the sub-continent to provide the two Governments with any necessary explanation of the Commission's proposals. Mr. Colban, the personal representative of the Secretary-General, and a small staff were to accompany the Colombian representative.

On the basis of understandings reached in conversations held at New Delhi and Karachi between the representatives of the two Governments and Mr. Lozano, the Governments of India and Pakistan signified their acceptance of the Commis-

sion's proposals of 11 December 1948 in communications dated 23 December and 25 December respectively (annexes 4 and 5).

While Mr. Colban remained on the sub-continent to await the return of the Commission, Mr. Lozano left for Lake Success where, on 5 and 6 January 1949, he reported the results of his mission.

On 1 January 1949, the Governments of India and Pakistan declared that, in view of the fact that the proposals of the United Nations Commission for India and Pakistan had been accepted, there remained no reason for continuation of hostilities. Both Governments announced their agreement to order a cease-fire effective one minute before midnight, 1 January 1949, publicly expressing the hope that this decision may bring to the people of Jammu and Kashmir lasting peace and to the peoples of Pakistan and India a sense of closer friendship.

The Commission reconvened at Lake Success at 3 p.m. on 5 January 1949 with the principal objectives of formulating a resolution embodying the Commission's proposals, discussing its future work and movements, and submitting a further report to the Security Council. At its meeting on 5 January, the Commission adopted a resolution, the text of which follows :

"The United Nations Commission for India and Pakistan,

"Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's resolution on 13 August 1948 :

"The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;

"A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed;

"(a) The Secretary-General of the United Nations will,

in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

"(b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

"(c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require

"(a) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

"(b) As regards the territory referred to in A.2 of part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in Consultation with the local authorities.

"All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

"(a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of

Pakistan. The Commissions shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

- “(b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.

“All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that :

- “(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;
- “(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;
- (c) All political prisoners are released;
- (d) Minorities in all parts of the State are accorded adequate protection; and
- (e) There is no victimization.

The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted;

At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether

the plebiscite has or has not been free and impartial;

Upon the signature of the truce agreement, the details of the foregoing proposals will be elaborated in the consultations envisaged in part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations;

"Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948; and

"Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948 and by the foregoing principles."

The Commission also drafted a communique for the Press to be released for publication in the morning papers on Friday, 7 January 1949 (annex 6). The texts of the resolution and the communique were transmitted to the Governments of India and Pakistan, so that release in those countries and at Lake Success might be simultaneous.

In order to enable the Military Adviser to report to the Commission on the observance of the cease-fire and the truce agreement, the Commission requested the Secretary-General of the United Nations to provide for the designation of an adequate number of military observers. It is hoped that some or all of these observers will have arrived on the scene by the end of January.

Under the Commission's proposals, a Plebiscite Administrator will be nominated by the Secretary-General of the United Nations in agreement with the Commission, and he will be formally appointed to office by the Government of the State of Jammu and Kashmir. It is important that a personality of high international standing, commanding general confidence, be nominated in the near future, so that work essential to actual preparation for the plebiscite may be commenced when required. The Plebiscite Administrator will undertake his duties within the State when it is found by the Commission that the cease-fire and truce arrangements set

forth in parts I and II of the resolution of 13 August 1948 have been carried out.

The Commission plans to return to the sub-continent as soon as practicable, and in any event before the end of January, there to carry out its responsibilities with reference to the cease-fire and truce agreement and the elaboration of the plebiscite proposals. The Commission will continue to report regularly to the Security Council, submitting its further proposals and conclusions.

(Signed) Carlos A. Legulzamon (Argentina)

Harry Graeffe (Belgium)

Alfredo Lozano (Colombia)

Josef Korbel (Czechoslovakia)

*J. Klahr Huddle (United States
of America)*

APPENDIX A

Chairmen of the Commission

(1 October 1948 to 15 January 1949)

<i>Term</i>	<i>Member State and representative</i>
1 to 21 October 1948	<i>Argentina</i>
22 October to 11 November 1948	H. E. Minister Ricardo J. Siri
12 November to 2 December 1948	<i>Belgium</i> H. E. Ambassador
3 to 13 December 1948 and	Graeffe
	<i>Colombia</i>
	H. E. Minister
5 to 15 January 1949	Alfredo Lozano
	<i>Czechoslovakia</i>
	H. E. Ambassador Josef Korbel

APPENDIX B

Calendar of the Activities of The Commission*(25 September 1948 to 8 January 1949)*

<i>September</i>	Commission arrives in
25	Geneva
30 Geneva	63rd meeting
<i>October</i>	
4 Geneva	64th meeting
5 Geneva	65th meeting
6 Geneva	66th meeting
7 Geneva	67th meeting
8 Geneva	68th meeting
9 Geneva	69th meeting
11 Geneva	70th meeting
12 Geneva	71st meeting
13 Geneva	72nd meeting
14 Geneva	73rd meeting
15 Geneva	74th meeting
16 Geneva	75th meeting
18 Geneva	76th meeting
19 Geneva	77th meeting
20 Geneva	78th meeting
21 Geneva	79th meeting
22 Geneva	80th meeting
<i>November</i>	
8 Paris	81st meeting
	Informal conversation of Chairman with representative of India
9 Paris	82nd meeting
12 Paris	83rd meeting
15 Paris	84th meeting
16 Paris	85th meeting
	Informal meeting with Pakistani Foreign Minister
17 Paris	86th meeting

- | | | |
|-----------------|-------|---|
| 18 | Paris | 87th meeting |
| | | 88th meeting |
| 19 | Paris | 89th meeting
(Pakistani Foreign Minister
present) |
| | | 90th meeting |
| 20 | Paris | 91st meeting |
| 22 | Paris | 92nd meeting |
| 24 | Paris | 93rd meeting |
| 25 | Paris | Chairman attends 382nd
meeting of Security
Council for discussion of
India-Pakistan question |
| 27 | Paris | 94th meeting
Informal meeting with
Pakistani Foreign Minister |
| 29 | Paris | 95th meeting
Informal meeting with
representative of India |
| | | 96th meeting
Informal meeting with Pakistani
Foreign Minister |
| 30 | Paris | 97th meeting |
| <i>December</i> | | |
| 1 | Paris | 98th meeting |
| | | 99th meeting |
| 2 | Paris | 100th meeting |
| | | 101st meeting |
| 4 | Paris | Military Adviser appointed |
| 6 | Paris | 102nd meeting |
| 8 | Paris | 103rd meeting |
| 10 | Paris | 104th meeting
(Pakistani Foreign Minister
present) |
| | | 105th meeting
(Representative of India
present) |
| 11 | Paris | 106th meeting |
| | | 107th meeting |

		Proposals regarding plebiscite communicated to representatives of India and Pakistan
13	Paris	108th meeting
16	Paris	Representative of Colombia and party proceed to sub-continent. Chairman proceeds to Lake Success
20	New Delhi	Discussion of representative of Colombia and Prime Minister of India
22	New Delhi	Discussion of representative of Colombia and Prime Minister of India
24	Karachi	Discussion of representative of Colombia and Pakistani Foreign Minister
25	Karachi	Discussion of representative of Colombia and Pakistani Foreign Minister
30	Paris	Military Adviser proceeds to sub-continent
<i>January 1949</i>		
1	New Delhi-Karachi	Cease-fire orders issued by India and Pakistan
5	Lake Success	109th meeting
6	Lake Success	110th meeting
		111th meeting
8	Lake Success	112th meeting
		113th meeting

ANNEX 1

Letter dated 22 November 1948 from the Chairman of the Commission to the President of the Security Council transmitting a letter from the Foreign Minister for Pakistan

I have the honour to transmit the following communication from the Foreign Minister for Pakistan :

"I have the honour to inform Your Excellency that I have been instructed by the Pakistan Government to transmit at once the following communication to the Security Council :

"The Pakistan Government wish to draw the attention of the Security Council to the developments in Kashmir which constitute definite violations by India of the undertaking given by both Governments in response to UNCIP's resolution of 19 September 1948. This resolution appealed to both Governments to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement.

"The Government of Pakistan have scrupulously observed the undertaking given by them. On the other hand, India now appears determined to force a military decision in Kashmir. Indian Army has recently been reinforced in Jammu area by three infantry brigades, four militia battalions, one field artillery regiment, one medium artillery regiment. A corps H.Q. has been established in Naushera controlling three divisions of army, one airborne division operating in Riasi and Poonch districts. In Srinagar area reinforcement of two additional infantry brigades plus three battalions and one regiment of field artillery have arrived. Indian Air Force operating in Kashmir has also been considerably reinforced.

"Last September Indian Army made an attack in brigade strength on Zojilla Pass which was repulsed. In October an attack in brigade strength north from Jammu towards Uri was also held, while an attack by one brigade from Jhangar towards Kotli was held 15 miles north-west of Jhangar. Indian Army has now started major offensive by at least one division supported by imported cars from Rajauri towards Kotli and Mendhar and is continually moving up reinforcements to Naushera. Object undoubtedly is all-out offensive to obtain possession of Western Kashmir including Mirpur, Mangla Head Works and whole of Poonch.

"Heavy fighting is now in progress on this front and renewed flow of refugees into West Pakistan has already begun as a result of this Indian Army offensive. Indian Army has also renewed attack by at least one brigade over Zojilla Pass

and has penetrated defences of Dras. These attacks on both fronts are being supported by maximum air action. It is quite clear that India's object is to secure a decision by military means immediately and so face United Nations with a *fait accompli*.

"Hitherto Azad forces with minimum support by Pakistani Army acting in a purely defensive role have managed to hold Indian aggression. Pakistani Air Force has so far not been employed in a combat role. Government of Pakistan cannot emphasize too strongly to the Security Council that unless immediate steps are taken by them to halt Indian Army offensive, the Pakistani Government will have no option but to change their policy of using minimum regular forces in Kashmir and will have to undertake counter-offensive with all available resources in an endeavour to prevent the over-running by Indian Army of Poonch and Mirpur districts. This must inevitably lead to most bloody fighting between regular Pakistani and regular Indian forces which up till now Pakistani Government have sincerely endeavoured to avoid. The situation is therefore fraught with possibilities of wide extension of armed conflict.

In the course of my informal meeting with the Commission on 16 November, I understood that the Commission was formulating the basic conditions for a plebiscite under part III of its resolution of 13 August 1948, and that it intended to present its proposals very shortly to the representatives of India and Pakistan. Realizing the delicacy of the task upon which the Commission is engaged, and being extremely apprehensive that the efforts of the Commission to bring about a peaceful settlement of the disputes between India and Pakistan might be completely frustrated by India's attempt to achieve a military decision in Jammu and Kashmir, I have the honour to transmit my Government's communication to the Security Council through the Commission instead of sending it direct.

In view of the grave situation created by the aggressive action of India, which threatens to flare up into an armed conflict of the most serious magnitude between two States, Members of the United Nations, I would request that the

Commission may be pleased to transmit the Pakistani Government's communication to the Security Council, and to take such urgent action as the Commission may deem appropriate and effective to cope with the emergency. The Commission will readily appreciate that a military decision achieved by one party to the Kashmir dispute, while the Commission is within sight of the formulation of its proposals for a peaceful settlement of the dispute, would from every point of view be a disaster, and that urgent and effective action is needed to avert it.

(Signed) Zafrullah Khan
*"Minister for Foreign Affairs and
 Commonwealth Relations,
 Government of Pakistan"*

The United Nations Commission for India and Pakistan, as is noted in the above letter, is at present engaged in the preparation of bases for further negotiations with the Governments of India and Pakistan, and is awaiting the replies of the representatives of the two Governments to its initial suggestions. The Commission envisages its return to the sub-continent as soon as the development of the present consultations with representatives of the two Governments here in Paris renders this desirable.

The Commission has addressed a communication to the Secretary-General of the Indian Ministry of External Affairs, who is at present in Paris, asking him to secure, as a matter of urgency, his Government's observations on the situation referred to in the communication from the Foreign Minister of Pakistan. The Commission at the same time has appealed to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful final settlement.

In an effort to obtain specific information on the present military situation, the Commission is in communication with the Secretary-General regarding the appointment of a military

adviser who would be dispatched to the Indian sub-continent as soon as practicable and keep the Commission currently informed. The Secretary-General is being addressed separately on this subject.

The Commission will keep you informed of further developments in the situation.

(Signed) Alfredo Lozano
Chairman, United Nations Commission
for India and Pakistan

ANNEX 2

**Letter dated 30 November 1948 from the Chairman of
the Commission to the President of the Security
Council enclosing a copy of a letter dated 28
November 1948 from the representative
of India to the Chairman of the Commission**

Paris, 30 November 1948

I have the honour to refer to my letter of 22 November 1948 referring my communication from the Foreign Minister for Pakistan in connexion with the pending dispute between that country and India.

In my letter to you, I mentioned that the Commission for India and Pakistan had addressed a communication to the Secretary-General of the Indian Ministry of External Affairs who is at present in Paris asking him to secure, as a matter of urgency, his Government's observations on the situation referred to in the communication from the Foreign Minister for Pakistan. The Commission, at the same time, appealed to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful, final settlement.

I have now received a reply dated 28 November 1948 from the Indian representative, and I beg leave to enclose copy

of that document for the information of the Security Council.

(Signed) *Alfredo Lozano*
Chairman, United Nations Commission
for India and Pakistan

Enclosed : copy of the letter from the representative of India

Paris, 28 November 1948

I have the honour to refer to your letter of 22 November 1948, which reproduces the text of a letter dated the 19th instant, addressed to you by the Foreign Minister for Pakistan. Sir Mohammed Zafrullah Khan's letter raises three main points :

1. That India had violated the undertaking given by both the Governments of India and Pakistan in response to the Commission's resolution of 19 September 1948;

2. That the Indian Army and Air Force in Jammu and Kashmir had recently been heavily reinforced;

3. That India had now started a major offensive with the object of securing a decision by military means immediately and so facing the United Nations with a *fait accompli*.

On the basis of instructions and information received by my Government, I submit the following answers to the three points set out in the preceding paragraph :

1. My Government completely deny the allegation of the Government of Pakistan that they have violated any undertaking. In this connexion, I would invite your attention to the reply of my Government to the Commission's resolution of 19 September, dispatched from New Delhi on 29 September, of which, for convenient reference, I attach a copy. In that reply, the Prime Minister of India and Minister of External Affairs and Commonwealth Relations, Shri Jawaharlal Nehru, drew the attention of the Commission to the continued presence of Pakistani troops on the territory of Jammu and Kashmir, which is now Indian territory, and of the continued offensive against Indian troops in this State by Pakistani troops as well as by other hostiles who are under the

operational command of the Pakistan Army. The Prime Minister added : "The extent to which the Government of India can observe the Commission's resolution will naturally depend upon this situation". My Government maintain, in view of this reply, that there has been no breach of any undertaking by them.

2. As I pointed out in the course of the debate in the Security Council last Thursday, the statements in Sir Mohammed Zafrullah Khan's letter to Your Excellency dated 19 November regarding the reinforcements sent by India to Jammu and Kashmir are incorrect. The Air Force has not been strengthened at all. As regards the Army, all that has happened is that, in recent months, about five thousand men have been sent to Jammu and Kashmir, partly to relieve old troops and partly to meet fresh attacks by the Pakistani Army supported by big guns. There has been a fresh disposition of old troops, in the course of which certain brigade headquarters have been established. The reference to new brigades in the Pakistani Foreign Minister's letter of the 19 November is not understood.

3. While the Government of India feel that they are perfectly justified, in the face of Pakistan's invasion of Jammu and Kashmir and continuous attacks, to use military means to clear Kashmir, they have been acting on the defensive during the past months and there has been no major offensive nor is any such offensive contemplated. The Commission is familiar with the terrain in Kashmir and aware of the climatic conditions which prevail there during the winter. These factors alone make the undertaking of a major offensive during the winter impossible. The operations over the Zojilla Pass were intended to relieve the Kashmir valley of a threat from the north-east and the pressure by hostiles on Leh. The operation in the Poonch area which resulted in the capture of Mendhar was also undertaken to clear the road to Poonch where, as the Commission is aware, a garrison of Indian troops has been besieged for some months and is still under siege. Unless the road was kept clear, neither the garrison nor the refugees now in Poonch, numbering thousands, could be kept supplied.

In your letter under reply, Your Excellency addressed an

appeal to the Government of India to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful final settlement. This appeal has been endorsed by the Security Council and was communicated officially to Her Excellency Mrs. Pandit in a letter dated 27 November 1948 from the President of the Security Council. I have telegraphed to my Government for a formal reply to this appeal. Meanwhile, I can assure the Commission that, as already stated, the Government of India have not launched, and have no intention of launching, a military offensive. The Commission will, I submit, recognize that the Government of India's further course of action would depend on what Pakistan does.

(Signed) G.S. Bajpal
*Secretary-General of the Ministry of
 External Affairs and Commonwealth
 Relations, Government of India*

29 September 1948

Adjustment

Please convey the following from the Prime Minister to the Chairman of the United Nations Commission for India and Pakistan, now in Geneva :

"I have carefully considered the resolution of the Commission which, in substance, corresponds to the resolution adopted by your Commission at its 15th meeting held on 14 July 1948, at Faridkot House, New Delhi. In reply to this resolution. I stated : 'The Commission may rest assured that, consistently with their rights under international law and the Charter of the United Nations, the Government of India will continue to endeavour to give effect to the Commission's request.' My Government have faithfully kept this promise. The Commission is aware of the continued presence of Pakistani troops on the territory of Jammu and Kashmir, which is now Indian territory, and of the continued offensive

against Indian troops in the State by Pakistani troops as well as by other hostiles, who are under the operational command of the Pakistan Army. The extent to which the Government of India can observe the Commission's resolution will naturally depend upon this situation.

"Jawaharlal Nehru"

ANNEX 3

Basic principles for a plebiscite proposed by the Commission to the Governments of India and Pakistan on 11 December 1948

The Commission reaffirms its resolution of 13 August 1948.

The Governments of India and Pakistan simultaneously accept supplementary to this resolution the following principles :

The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.

- (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
- (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

- (c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.
- (a) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.
- (b) As regards the territory referred to in A.2 of part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

All civil and military authorities within the State and the principal elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

- (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commissions shall operate under the direction of the Plebiscite Administrator. The Government of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.
- (b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.

All authorities within the State of Jammu and Kashmir

will undertake to ensure, in collaboration with the Plebiscite Administrator, that :

- (a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;
- (b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.
- (c) All political prisoners are released;
- (d) Minorities in all parts of the State are accorded adequate protection; and
- (e) There is no victimization.

The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities admitted it has been entrusted.

At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

Upon the signature of the truce agreement, the details of the foregoing proposals will be elaborated in the consultations envisaged in part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations.

Part I and part II of the Commission's resolution of 13 August 1948 will be put into effect without delay.

ANNEX 4

Communication dated 23 December 1948 from the Government of India Addressed to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan.

New Delhi, 23 December 1948

I have already forwarded to you authentic copies of two *aide-memoire* embodying the substance of your discussions with the Prime Minister of India. On the basis of the explanation given by you of the Commission's plebiscite proposals and the understanding arrived at in the course of the conversations between you and the Prime Minister, the Government of India, animated by a sincere desire for a peaceful settlement of the Kashmir dispute and by their willingness to assist the United Nations Commission in achieving this objective, have decided to accept the proposals.

As you yourself said, the appointment of a Plebiscite Administrator will take some time. The Government of India have no objection to the preliminaries of choosing a person of high international standing and commanding general confidence being started, but they would prefer the proceedings to be kept confidential for the time being. No public announcement of the name of the person selected should be made without prior consultation with them.

My Government would be glad to be informed, if necessary confidentially, through their High Commissioner in Karachi, of the reply of the Government of Pakistan to the Commission's proposals. That Government should not be informed of the Government of India's acceptance until after it has communicated its reply to Your Excellency.

(Signed) G.S. Bajpai
Secretary-General of the Ministry of
External Affairs and Commonwealth
Relations, Government of India

Aide-memoire I

21 December 1948

Mr. Lozano, accompanied by his alternate, Mr. Samper, and Mr. Colban, personal representative of the Secretary-General of the United Nations, met the Prime Minister yesterday. The Honourable Shri N. Gopalaswami Ayyangar and Sir G.S. Bajpai were also present. The discussion of the Commission's plebiscite proposals fell into two parts : general; and particular in reference to individual clauses.

The Prime Minister drew attention to Pakistan's repeated acts of aggression against India. In spite of the presence of Pakistani troops in Jammu and Kashmir, which is Indian territory now, and the offensive action of Pakistani troops, the Government of India had accepted the Commission's resolution of 13 August. Pakistan had not accepted that resolution.

In paragraph 143 of its report (S/1100) the Commission has referred to its conference with the Prime Minister on the conditions attached by the Government of Pakistan to its acceptance of the resolution of 13 August. As stated in paragraph 144 of the report, the Prime Minister had informed the Commission that he stood on his original premises that the Pakistani forces must be withdrawn from the State before the Government of India could consider any further steps. This had specific reference to an amplification of part III of the resolution of 13 August.

Nevertheless, the Government of India had agreed to informal conversations in Paris which had resulted in the formulation of the proposals now put forward by the Commission. The Government of India naturally wondered how far this process of rejection of proposals put forward by the Commission by Pakistan and the adoption of a responsive attitude on the part of the Government of India towards the Commission's proposals could continue. The Commission must realize that there were limits to the forbearance and spirit of conciliation of the Government of India.

The Prime Minister emphasized firstly that, if the

Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until parts I and II of the Commission's resolution of 13 August had been fully implemented; secondly that, in the event of Pakistan not accepting these proposals or, having accepted them, of not implementing parts I and II of the resolution of 13 August, the Indian Government's acceptance of them should not be regarded as in any way binding upon them; and thirdly, that part III of the Commission's resolution of 13 August provided "that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance to the truce agreement, both Governments agree to enter into consultation with the Commission to determine fair and equitable conditions whereby such free supression will be assured".

The present proposals appeared to limit the method of ascertaining the will of the people regarding the future status of the State of Jammu and Kashmir to a plebiscite. While the Government of India adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored. The Commission had itself recognized the difficulties of carrying out a plebiscite in Kashmir. The Government of India feel that the exploration of other methods should not be ruled out.

As regards the Prime Minister's first point, Mr. Lozano inquired whether there would be objection to the appointment of a Plebiscite Administrator until Parts I and II of the resolution of 13 August had been implemented. Both he and Mr. Colban thought that the Plebiscite Administrator could do useful exploratory work even before arrangements for holding a plebiscite could be taken in hand. The Prime Minister pointed out that it was always open to the Commission to employ advisers or experts for work within its terms of reference. The Government of India, however, would regard the appointment of a Plebiscite Administrator, as such, premature until parts I and II of the resolution of 13 August had

been implemented.

Mr. Lozano accepted the second point made by the Prime Minister. As regards the third point, he said that the Commission wished the possibility of a plebiscite to be explored first. Should the Plebiscite Administrator, however, find a plebiscite to be impracticable, the way would be open to consider other methods for ensuring a free expression by the people of Jammu and Kashmir of their wish regarding the future status of the State.

Preamble : The phrase "The Governments of India and Pakistan simultaneously accept" is incorrect in that either Government may not accept the principles supplementary to the resolution of 13 August. Even if both Governments accept them, the acceptance cannot be simultaneous. The wording should be changed accordingly.

- (b) The question was raised whether the form of words employed was intended to give to the Plebiscite Administrator powers of interference in the administration of the State, for instance, by "direction and supervision of the State Forces and Police", mentioned in paragraph B.8 of the Security Council's resolution of 21 April 1948. Mr. Lozano said that this was not the intention of the Commission and that the words quoted above had been deliberately omitted. The Prime Minister pointed out that all the Plebiscite Administrator could in reason expect was that, for the purpose of organizing and conducting the plebiscite and ensuring its freedom and impartiality, the Government of Jammu and Kashmir should give him such assistance as he might require.

Mr. Lozano said that a Plebiscite Administrator of international standing and commanding general confidence who would be appointed after consultation with the Government of India could be expected to act reasonably and that the Commission did not intend that he should usurp the functions of the State Government in the field of normal administration and law and order. His functions and powers would be limited to ensuring that the plebiscite was free and impartial.

(b) The Prime Minister drew attention to the fact that the Azad Kashmir forces which had been armed and equipped by Pakistan and were under the operational command of the Pakistani army ran into tens of thousands. Their presence in the territories referred to in A.3 of part II of the resolution of 13 August even after demobilization, would be a constant threat to the territory under the control of Indian and State forces, a deterrent to the return of many refugees, and an obstacle to the free expression of opinion regarding the future status of the State by those who might be opposed to the accession of the State to Pakistan. Mr. Lozano pointed out that it was the Commission's intention that there should be large-scale disarming of these forces, though it would not be possible to require withdrawal, from these territories, of genuine inhabitants of these areas.

(a) Mr. Lozano agreed that it was not the Commission's intention that the Pakistan Commission should operate outside Pakistan. Thus, the Pakistan Commission would *not* operate in the territory referred to in A.3 of part II of the resolution of 13 August.

The Prime Minister then raised the question of the "free return" to the State of all citizens who had left it on account of the disturbances. He said that the tendency of Pakistan would be to push as many people as possible into Jammu and Kashmir. If the plebiscite was to be limited, as it should be, to genuine citizens of the State, the entry into the State of persons claiming to be citizens would have to be most carefully checked. With regard to how this was to be achieved, Mr. Lozano said that the Commission fully realized the necessity of an accurate and effective check but had not gone into details. Possibly those returning to the State could be stopped and examined at the frontier. The Prime Minister pointed out that, considering the length of the frontier and the ease with which people could slip across the border over the mountain tracks, a check on the frontier would neither be easy nor effective, except by the deployment of large forces.

Apart from the problem of entry there is the even more important problem of the reimagination and protection of those who have left the State on account of recent disturbances. Homes have been destroyed; property has been lost; there has been wholesale dispossession of persons from the land that they used to cultivate. It is not enough to "invite" these persons to return to the State. They have to be given full security and to be housed, fed, and put in a position to maintain themselves. It may be necessary to lodge these returning citizens of the State temporarily in camps for distribution to their homes. They could not, however, be expected to remain in relief camps for long or to take part in a plebiscite from such camps. The administrative and economic implications of this task were at once significant and onerous. They must receive full attention.

- (a) It is assumed that the Government of Jammu and Kashmir will decide whether or not a person entered the State for a lawful purpose.
- (b) India is a secular State; the United Nations is also a secular organization. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Mr. Lozano agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of press and of speech.

As regards the freedom of lawful entry and exit, this must obviously be governed by B.6 of the proposals. It is assumed that in the territory under their control entry and exit will be regulated by rules framed for the purpose by the Government of Jammu and Kashmir with due regard to the security of the State and the maintenance of law and order. Mr. Lozano said that a system of permits would probably be necessary.

- (c) Persons guilty of ordinary offences against the law will not be regarded as political prisoners.

In all their negotiations the Government of India have emphasized the paramount need of ensuring the security of the State. The Commission recognized this in its resolution

of 13 August; it has also provided in 4 (a) of the plebiscite proposals that measures with regard to the final disposal of Indian and State forces will be taken with due regard to the security of the State. The Government of India wish to emphasize the supreme importance which they attach to adequate provision for the security of the State in all contingencies.

Aide-memoire 2

22 December 1948

Mr. Lozano and Mr. Colban met the Prime Minister at 11 a.m. The Honourable Shri N. Gopalaswami Ayyangar, Sir Girja Shanker Bajpai and Mr. Pai were also present.

Mr. Lozano said that the *aide-memoire* of the conference which took place on Monday, 20 December, was a correct account of the proceedings. He suggested, however, that the phrase "large-scale disarming" of the Azad Kashmir forces used in the portion of the *aide-memoire* dealing with B.4 (b) of the Commission's plebiscite proposals did not, perhaps, represent the Commission's intention. What the Commission had in mind was the disbanding of these forces; disarming, it was assumed, would follow.

The Prime Minister pointed out that disbandment was not the same thing as disarming. Pakistan had raised something like thirty-five battalions of 28,000 to 30,000 men who now formed part of the Azad Kashmir forces. The presence of such a large number of armed people, even if the regular formations were disbanded, would not be conducive to ensuring either the security of that part of Jammu and Kashmir which is under the control of Indian and State forces, or the security of those inhabitants of the territories referred to in A.3 of part II of the resolution of 13 August who did not fully subscribe to or share the political views of pro-Pakistan elements.

Moreover, the question of the re-entry into these territories of State citizens who had left it on account of the present conflict had to be kept in mind. With such a large number of members of the Azad Kashmir forces under arms, former

inhabitants of these territories who held different political views would not dare to re-enter and would therefore be debarred from participation in a "free and impartial" plebiscite. In view of this explanation, Mr. Lozano agreed that the phrase "large-scale disarming" should be regarded as correctly interpreting the Commission's intention.

Discussion then turned on B.10 of the proposals. Mr. Lozano, answering an inquiry of the Prime Minister, said that the Commission did not contemplate that the Plebiscite Administrator should undertake any administrative functions in regard to the plebiscite until parts I and II of the Commission's resolution of 13 August 1948 had been implemented. Until such implementation, the conditions for the discharge of such functions would not exist. What the Commission had in mind was that discussions on details connected with the plebiscite might begin as soon as possible since this would create a good impression all around. Mr. Colban supported this view on the ground that the announcement of a Plebiscite Administrator of high standing would have an excellent psychological effect.

Mr. Colban added that, of course, if difficulties arose in the implementation of part II of the resolution of 13 August the preliminary consultations regarding the functions of the Plebiscite Administrator and other detailed arrangements for the plebiscite would have to be deferred.

Unless the cease-fire was carried out and Pakistani forces, hostile tribesmen and Pakistani nationals who had entered the State for purposes of fighting had withdrawn, there could not be in the territories referred to in A.3 of part II of the resolution of 13 August, any local authorities with whom plebiscite arrangements could be discussed.

As at present worded, could be interpreted to mean that consultations with the Plebiscite Administrator should start immediately on the signature of the truce. This clearly was not feasible. Mr. Lozano and Mr. Colban pointed out that, when the paragraph in question was drafted, all these considerations were not present to the mind of the Commission. The Commission, according to Mr. Lozano, had assumed that, since the Prime Minister of India had informed the

Commission, two days after it had placed before him the conditions attached by the Government of Pakistan to their acceptance of the resolution of 13 August, that he stood on his original premises that the Pakistani forces must be withdrawn from the State before the Government of India could consider any further steps, action in relation to would be feasible only after satisfactory progress had been made with the implementation of part II of the resolution of 13 August.

He and Mr. Colban agreed that the consultations envisaged in could take place only after the Commission was satisfied that satisfactory progress had been made with the implementation of part II of the resolution, that is after hostile tribesmen, Pakistani forces and Pakistani nationals who had entered Jammu and Kashmir for the purpose of fighting had withdrawn from State territory. Mr. Lozano said that this was the interpretation of which they would present to the Pakistani Government in Karachi.

Mr. Lozano stressed the importance of appointing the Plebiscite Administrator as soon as possible. In view of the preliminaries that had to be gone through, he thought that it might take some time before the Plebiscite Administrator was finally appointed. The Prime Minister pointed out that, if Pakistan accepted the present proposals and carried out its obligations under part II of the resolution of 13 August promptly, he saw no reason why the appointment should take much time. What he wished to emphasize was that there would be nothing which the Plebiscite Administrator could usefully do in India until progress had been made with the implementation of part II of the resolution as now explained by Mr. Lozano and Mr. Colban.

As regards alternative methods of ascertaining the wish of the people regarding the future status of Jammu and Kashmir, Mr. Lozano said that the statement in paragraph 3 of the *aide-memoire* dated 21 December 1948 was substantially similar to his own record which reads: "Mr. Lozano said that it would be up to the Plebiscite Administrator to report to the Security Council (through the Commission) if he found the plebiscite procedure to be impossible for technical or practical reasons. The Plebiscite Administrator and/or the

Commission could then recommend alternative solutions."

Concluding the discussion, the Prime Minister once again emphasized the need for security for displaced State nationals returning to the territory referred to in part II A.3 of the Commission's resolution of 13 August. Equally important would be the task of rehabilitation of refugees returning to this area as well as to the part of the State under the control of the Government of Jammu and Kashmir. Hundreds of thousands of persons were involved. Not only organization and machinery but time and money would be needed to accomplish the formidable task of restoring these unhappy persons to what once was their home. Until this task was completed, the conditions for a free and impartial plebiscite would not exist. Mr. Lozano recognized the importance of this matter and pointed out that it will have to be carefully gone into when the consultations on the details of the present proposals take place.

ANNEX 5

Communications Dated 25 December 1948, from the Government of Pakistan Addressed to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan

Communication (1)

Karachi, 25 December 1948

I have the honour to refer to Mr. Korbél's letter of 11 December, enclosing the Commission's proposals in amplification of its resolution of 13 August. These proposals, together with the memorandum embodying the clarifications furnished by you, the text of which was confirmed in your letter of this afternoon, have been carefully considered by the Pakistani Government.

The points of the Pakistani Government with regard to the basic principles for a plebiscite, and the conditions which would ensure its freedom and impartiality, have been explained.

to the Commission, and have been summarized in my letters of 28 November and 5 December 1948.

It will be appreciated that the Commission's present proposals, as clarified and elucidated by you, fall very short of what the Pakistani Government consider necessary for ensuring a free and impartial plebiscite. The Pakistani Government note, however, that the Commission seeks to achieve this result mainly through investing the Plebiscite Administrator with all the powers he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality.

In order to secure that the proposals under consideration should achieve the objective for which they are designed, it is imperative that the Plebiscite Administrator should be a person of the highest international standing and unquestionable integrity. The Pakistani Government trust that the Commission and the Secretary-General of the United Nations will nominate a person competent in every respect adequately to discharge the heavy responsibility that would be laid upon him under the Commission's proposals.

While these proposals contain features which the Pakistani Government cannot regard as satisfactory or adequate, yet in their keen desire in the present world situation to assist in the maintenance and promotion of international peace and security by bringing about a peaceful solution to the Kashmir dispute, they have authorized me to inform you that they accept the Commission's proposals of 11 December, as explained and elucidated by you.

*(Signed) Zafrullah Khan
Minister for Foreign Affairs
and Commonwealth Relations,
Government of Pakistan*

Communication (2)

Karachi, 25 December 1948

As agreed at this afternoon's meeting, I enclose a memorandum embodying the clarification's given by you of the

Commission's proposals of the 11 December 1948. I shall be grateful if you will kindly confirm the correctness of this record.

(Signed) Zafrullah Khan
Minister for Foreign Affairs
and Commonwealth Relations,
Government of Pakistan

*Memorandum embodying the clarifications given by
Mr. A. Lozano of the Commission's proposals of
11 December 1948.*

General

The proposal's represent the considered views of the Commission in so far as the organization and conduct of the plebiscite is concerned, and should be accepted in their entirety. While the commission does not close the door to further changes, and is not unwilling to consider counter-proposals, no modifications or additions to these proposals can be entertained unless they are acceptable to the Commission and to the Governments of India and Pakistan.

Clause A

The Commission's resolution of 13 August 1948 will be interpreted in the light of the elucidations and clarifications given by the Commission.

Clause B.3(a)

- (i) The Plebiscite Administrator will be selected as soon as possible after the acceptance of these proposals.
- (ii) The Plebiscite Administrator will be selected in consultation with the Governments of India and Pakistan, but the final decision will rest with the Secretary-General of the United Nations in agreement with the Commission.

- (iii) The expression "the Plebiscite Administrator ... will be formally appointed to office by the Government of Jammu and Kashmir" does not mean that he will be an employee of the Government of Jammu and Kashmir, or subject to its control.

Clause B.3(b)

By the expression "the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary", is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and he shall be deemed to have derived those powers from the authorities concerned. The organizing and conducting of the plebiscite will be the responsibility exclusively of the Plebiscite Administrator.

Clause B.4

- (i) For "A.2" of part II of the resolution of 13 August in sub-clause B.4(b) read "A.3."
- (ii) The intention of the Commission is to ensure a large-scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned.

Clause B.6(a)

- (i) The objective of the Commission is to enable all citizens of the State who have left it on account of the disturbances since 15 August 1947 to return to the State and to exercise all their rights as citizens of the State. The manner in which this operation will be carried out has not been examined by the Commission, and is a matter for determination by the Plebiscite Administrator in consultation with the

Governments of India and Pakistan.

- (ii) The proposals provide for two commissions, one operating in India and the other in Pakistan. The Commission has not, however, entered into a detailed study of the manner in which these commissions will operate and considers that it must be left to the discretion of the Plebiscite Administrator to adopt such other practical methods as may be necessary to give effect to the intentions of the Commission.

Clause B.6(b)

The object of this provision is to ensure the withdrawal of elements which have endangered or might endanger the maintenance of peace and order and or refugees and other nationals of India and Pakistan who have entered the State since 15 August 1947, other than for a lawful purpose. The manner in which this objective will be achieved will be determined by the Plebiscite Administrator in consultation with the Governments of India and Pakistan.

Clause B.7

The review of cases of officials dismissed on account of their political sympathies is not excluded from the scope of clause 7. The Commission, however, feels that this is a matter of detail, and should be taken up in connexion with the consultations envisaged in clause B.10 of these proposals.

Clause B.10

- (i) The Plebiscite Administrator will begin his study of the problem and the recruiting of his staff as soon as possible after his nomination.
- (ii) The discussion of details of these proposals will not, however, be started until the truce agreement has been signed, and the Commission is satisfied that implementation of part II of its resolution of 13 August is making satisfactory progress.

- (iii) The formal appointment of the Plebiscite Administrator will be made, and he shall assume formal change of his duties within the State, when it is found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of its resolution of 13 August have been carried out.

ANNEX 6

Press Communiqués Issued By the Commission on 7 January 1949

The Governments of India and Pakistan have informed the United Nations Commission for India and Pakistan that they have accepted the principles proposed by the Commission for the holding of a plebiscite in the State of Jammu and Kashmir for the purpose of determining the State's future status. These principles are supplementary to the Commission's resolution of 13 August 1948 which provided for a cease-fire and truce. Following the agreement of the two Governments to the Commission's last proposals both Governments ordered the forces under their control in the State to cease-fire effective at 11.59 pm., 1 January 1949.

The Governments of India and Pakistan are commended for their endeavour to reach a friendly and peaceful solution of the Kashmir problem. Worthy of especial note is the prompt proclamation of the cease-fire by both Governments.

At its meeting of 5 January at Lake Success, the Commission adopted unanimously the following resolution :

[The text of the resolution is reproduced above, in this document, under paragraph 15 of the second interim report.]

(Source : UN Document S/1196)

Third Interim Report of the United Nations Commission for India and Pakistan

I. COMPOSITION OF THE COMMISSION

A. Delegates

At the time of the signing of this report the representatives of the five countries which constitute the Commission, are:

1. *Representatives*

Argentina	Minister Carlos A. Leguizamon
Belgium	Ambassador Robert van de Kerchove
Colombia	Mr. Hernando Samper
Czechoslovakia	Ambassador Oldrich Chyle
United States	Minister Robert Macatee

2. *Alternate Representatives*

Belgium	Mr. Jean Bouha
---------	----------------

3. *Advisers*

Mr. William L. S. Williams
Adviser to the Representative of the United States.

Secretarial Staff

Mr. Edward Mike
Secretary-Stenographer for the United States Delegation

B. Secretariat

The following personnel were appointed by the Secretary-General to assist the Commission in its task :

Principal Secretary and Personal Representative of the Secretary-General

Mr. Erik Colban (Norway)

Military Adviser

Lt.-General Maurice Delvoie (Belgium)

Legal Adviser and Deputy Principal Secretary

Mr. Miguel A. Marín (Spain) (Security Council Affairs)

Personal Assistant to Mr. Colban

Mr. Sylvain Lourie (France)

Press Officer

Mr. Michael de Capite (U.S.A.) (Department of Public Information)

Precis Writer

Mr. Artur Isenberg (U.S.A.)

Administrative and Financial Officer

Mr. Hugh R. Reid (Australia) (Administrative and financial Services)

Finance Officer

Miss Florence B. Hartman (U.S.A.) (Administrative and Financial Services)

Secretary-Stenographers

Miss Louise A. Crawford—in charge of documents (U.S.A.) (Administrative and Financial Service)

Miss Micheline C. Dupuis—(Canada) (Department of Social Affairs)

Miss Edith R. Forrest—in charge of cypher service
(Australia)

Miss Elizabeth M. Kerrigan (Australia) (Department of
Security Council Affairs)

Miss Frances F. Mac Auley—(Canada) (Department of
Public Information)

Miss Geraldine M. Oliva—(U.S.A.) (Department of
Security Council Affairs)

II. CHRONOLOGICAL SURVEY

A. Rotation of Chairman

4 February to 20 February 1949	Mr. Robert B. Macatee (United States)
21 February to 24 February 1949	Mr. J. Klahr Huddle (United States)
25 February to 18 March 1949	Mr. Carlos A. Leguizamon (Argentina)
19 March to 9 April 1949	Mr. Robert van de Kerchove (Belgium)
10 April to 20 May 1949	Dr. Alfredo Lozano (Colombia)
21 May to 10 June 1949	Mr. Robert B. Macatee (United States)
11 June to 2 July 1949	Mr. Carlos A. Leguizamon (Argentina)
3 July to 23 July 1949	Mr. Robrt van de Kerchove (Belgium)
24 July to 13 August 1949	Mr. Hernando Samper (Colombia)
14 August to 3 September 1949	Dr. Oldrich Chyle (Czechoslovakia)
4 September to 24 September 1949	Mr. Robert B. Macatee (United States)
25 September to 27 September and 12 Octobr to 29 October 1949	Mr. Carlos A. Leguizamon (Argentina)

30 October to 20 November 1949	Mr. Robert van de Kerchove (Belgium)
21 November to 3 December 1949 and from—December to—December.	Mr. Hernando Samper (Colombia)

Note

The Czechoslovakia representative on the Commission, Dr. O. Chyle, did not wish to take the chair on 21 May on the grounds that he had just joined the Commission and had not attended, at that date, any formal meetings.

B. Groups and Sub-Committees

The Commission in the course of its activities appointed two sub-committees :

At its 124th meeting on 17 February 1949 a Sub-Committee on Western Kashmir was appointed to investigate conditions in the Azad held area, much on the same lines as the Economic and Political Mission appointed in August 1948 which toured the eastern portion of the States. This Sub-Committee was composed of Mr. Harry Graeffe (Belgium) Chairman, Mr. Ward P. Allen (United States), and Mr. J. Richard Symonds (Secretariat). The Group left Delhi on 12 March 1949 and returned to the Indian capital on 30 March 1949.

At its 125th meeting on 18 February 1949 the Commission appointed a Truce-Sub-Committee composed of Mr. Hernando Samper (Colombia), Mr. William L. S. Williams (United States) and Mr. Miguel A. Marin (Legal Adviser—Secretariat) who were entrusted with the task, in conjunction with the Military Adviser, of holding joint meetings with representatives of the High Commands of the two Dominions to ascertain their view and arrive at an agreement on the truce. The Sub-Committee met on 9 and 12 March 1949. The same Sub-Committee was entrusted with the task of conducting the negotiations with military representatives of India and Pakistan in Karachi on the cease-fire line in July 1947.

During its negotiations with the Governments of India and Pakistan the Commission found it necessary in a number of instances to leave a group in one capital and to send one or several members to meet the other Government.

On 26 March 1949, Mr. van de Kerchove (Belgium), then Chairman, accompanied by Dr. Lozano (Colombia) left Delhi to pay a courtesy call on the Foreign Minister of Pakistan in Karachi, and to hear the views of his Government on the truce. They returned to Delhi on 29 March.

On 7 April 1949, Mr. van de Kerchove, Chairman, and Mr. Macatee (United States) left Delhi for Rawalpindi to confer with representatives of the Pakistan Government on the truce agreement.

On 12 April 1949 the members of the Commission who had remained in Delhi re-joined the main body of the Commission in Rawalpindi.

The Commission, having drafted the truce proposals of 15 April 1949 requested Dr. Lozano (Colombia), Chairman and Mr. Leguizamon (Argentina), to return to Delhi to submit these proposal to the Indian Government. The same proposals were simultaneously submitted to the representative of the Pakistan Government in Rawalpindi.

The Commission reassembled in Rawalpindi on 19 April to study the reaction of the two Governments to the proposals of 15 April 1949.

On 28 April 1949, Dr. Lozano left Rawalpindi for Delhi to present to the Indian Government the Commission's revised truce terms of the same date. In Rawalpindi, at the same time, Mr. Macatee (United States) submitted them to the Pakistan authorities.

On 13 May 1949, Dr. O. Chyle (Czechoslovakia) joined the Commission in Rawalpindi. On 19 May 1949 the members of the Commission in Rawalpindi left for Srinagar. On 21 May 1949 Dr. Lozano (Colombia) arrived from Delhi with the Government of India's reply to the terms of 28 April.

On 23 May 1949 the Chairman, Mr. Macatee (United States) went to Karachi to discuss with the Pakistan Government the truce terms of 28 April 1949. Upon receipt of the formal Pakistan reply they left Karachi on 30 May 1949 for

Srinagar.

After consideration of the reply of the two Governments the Commission decided to send Dr. Lozano (Colombia) to Delhi for further consultations with the Indian Government on their reply to the Commission's terms of 28 April. He left Srinagar on 11 June 1949. Thereafter the Commission sent Mr. Macatee (U.S.) to Karachi for the purpose of consulting the Pakistan Government on its reply to the Commission's truce terms. They left on 27 June and returned on 30 June 1949.

On 2 August Mr. Samper (Colombia), Chairman, proceeded to Delhi with the task of ascertaining the Government of India's views on the possibility of holding a joint political meeting. On 6 August, in Karachi, he consulted the Pakistan Government on the same subject and returned to Srinagar on 7 August.

On 29 August, Dr. Chyle (Czechoslovakia), Chairman, left Srinagar for Karachi where he submitted to the Pakistan Government the Commission's suggestion on arbitration. For the same purpose he proceeded to Delhi on 30 August and returned to Srinagar on 3 September.

The Commission then requested Mr. Macatee (U.S.), Chairman, and Mr. Leguizamon (Argentina), Vice-Chairman, to proceed to Delhi to clarify the Commission's views on the arbitration proposal. They left for Delhi on 12 September and returned to Srinagar on 16 September.

C. Chronological expose of the proceedings of the Commission

On 10 January the Commission submitted its Second Interim Report to the Security Council on the work of the Commission from the time it left the Sub-continent on 22 September 1948 to 10 January 1949. At that time two main events were noted :

- (a) The principles relating to a plebiscite in the State were agreed to by both Governments and subsequently embodied in the 5 January Resolution, supplementary to Part III of the Resolution of 13 August, 1948;
- (b) As a consequence of the agreement, a cease-fire

became effective as of 1 January.

Dr. Lozano (Colombia) had proceeded to Lake Success on 25 December 1948 to report to the Commission on the outcome of his negotiations with the Governments of India and Pakistan relating to the holding of the plebiscite. The Personal Representative of the Secretary-General remained on the Sub-continent until the Commission returned on 4 February. He assured the continuity of contact with the Indian and Pakistan authorities and introduced to them and to the High Commands the Military Adviser of the Commission who had arrived on the Sub-continent on 1st January.

The Commission reassembled in London and left for the Sub-continent on 1 February.

On 5 February, under the Chairmanship of Mr. Macatee (United States), the Commission held its first meeting after its return to the Sub-continent (115th meeting). At that meeting the Personal Representative of the Secretary-General reported to the Commission on the progress of the organization of the work of the Military Adviser and the observers under his direction. He mentioned the objectionable propaganda in Kashmir during the absence of the Commission from the Sub-continent. The question of a suitable candidate for the post of Plebiscite Administrator was also mentioned.

At its 116th meeting in Karachi on the 7th February, the Commission received the delegation of Pakistan. The Foreign Minister welcomed the Commission.

At the 117th meeting, Sir Mohammad Zafrullah Khan commented on various aspects of Part II of the Commission's resolution of 13 August, 1948.

On 8 February Dr. Lozano (Colombia) was invited by Sir Mohammed Zafrullah Khan to consider with him the *aides-memoire* recording the substance of discussions between the Prime Minister of India and Dr. Lozano on 20 and 22 December 1948 on the Commission's proposals of 11 December, which later were incorporated in the 5 January Resolution, such consideration to be made in the light of the explanations presented to the Pakistan Government in Karachi on 24 and 25 December. These *aides-memoire* were annexed

to the Commission's Second Interim Report.

On 10 February, the Commission left Karachi for Delhi and held its 118th meeting on Friday, 11 February in Baroda House, New Delhi. At that meeting, Dr. Lozano (Colombia) reported to the Commission on conversations he had held with the Pakistan Foreign Minister on 8 February (Annex 1). It was decided to invite representatives of the Government of India to meet the Commission on 14th February. The problem of objectionable propaganda was debated and that letters should be sent to two Governments requesting them to take the necessary steps to meet the Commission's preoccupation over such action (Annex 2).

At its 120th meeting, the Commission welcomed the new Belgian representative, Ambassador van de Kerchove. The Commission heard representatives of the International Red Cross Committee who described the refugee problem and the measures already taken to alleviate the plight of the several hundred thousand displaced persons who were reported to have left their homes in the State of Jammu and Kashmir.

On 14 February, at its 121st meeting, the Commission received the Secretary-General of the Ministry of External Affairs of the Government of India, Sir Girja S. Bajpai. At the request of the Chairman Sir Girja S. Bajpai presented his Government's views on the problems relation to the implementation of the truce as envisaged in Part II of the Commission's Resolution of 13 August 1948. Sir Girja S. Bajpai mentioned articles in the Pakistan Press, as well as statements on the Pakistan and on the Azad-Kashmir radio, which were detrimental to the restoration of a peaceful atmosphere propitious to the preparation for a plebiscite.

At its 122nd meeting the Commission discussed the terms "local authorities" and "surveillance" in Part II A 3 of the Resolution of 13 August 1948 about the interpretation of which the Government of India appeared to feel some concern. It was decided that Mr. Macatee (United States), Chairman, accompanied by Dr. Lozano (Colombia), would call on Sir Girja on the same day (15 February) to give him the Commission's views on the subject.

On 16 February, at its 123rd meeting, the Chairman

reported on his conversation with Sri Girja S. Bajpai. It was decided that a letter would be sent to Sir Girja stating what the Commission meant by the term "surveillance".

On 17 February at its 124th meeting, the Commission heard a report from the Military Adviser on his first complete tour of the Kashmir front. He also described the organization of the observer teams throughout the territory of the State. The Commission in pursuance of the decision taken at the previous meeting adopted a letter to be sent to the Indian Government giving the Commission's interpretation of the terms on which Sir Girja requested clarification (Annex 3). The Commission also approved the terms of reference of the Sub-Committee appointed to conduct an enquiry and a study of the conditions in Western Kashmir (Annex 4) (see para. 1).

At its 126th meeting the Commission continued consideration of the question of the implementation of Part II of the Resolution of 13 August. The procedure to be followed was examined.

At its 127th meeting, on 22 February, the Commission welcomed Ambassador J. Klahr Huddle who had just arrived from the United States. The terms of reference of the Sub-Committee on the Truce Agreement, the creation of which was approved at the 125th meeting and the task of which was to work in conjunction with the Military Adviser in the drafting of the truce agreement, were then adopted (Annex 5) (see para 2). The Commission approved letters to both Governments informing them of the establishment of a Sub-Committee on the Truce Agreement (Annex 6). The Commission also studied Sir Girja S. Bajpai's reply to the Commission's letter of 17 February.

Study of the Indian Representative's letter (Annex 7) continued on to the 128th meeting. It was agreed in the light of this letter that a further meeting with Sir Girja would be advisable.

At its 129th meeting on 23 February Sir Girja S. Bajpai drew the attention of the Commission to an editorial of the Pakistan newspaper "Dawn", dated 20 February, and in this connection reiterated his Government's determination that a free and impartial plebiscite should be held.

The Commission, at its 130th meeting on 24 February, approved a reply to Sir Girja's letter of 18 February, which was to be left with him as an *aide-memoire* embodying the Commission's views on points raised in that letter (Annex 8). A copy of this document was forwarded to the Pakistan Government.

On 25 February Mr. Huddle (United States), Chairman, accompanied by Dr. Lozano (Colombia) called on Sir Girja S. Bajpai to submit to him the Commission's *aide-memoire*. On this occasion, Sir Girja expressed the Government of India's concern over the reports on the abduction of women in Western Kashmir.

At the 131st meeting on 28 February the Military Adviser reported on a few minor violations of the cease-fire. The question of a police force in the territory to be evacuated by Pakistan Armed Forces was brought up.

At the 132nd meeting, 2 March, the Commission approved a letter to be sent to the two Governments inviting them to meet in New Delhi with the Truce Sub-Committee for joint talks on the implementation of Part II of the Resolution of 13 August 1948 (Annex 9).

At the 133rd and 134th meetings, 3 and 4 March, the Commission examined certain difficulties raised by the Government of Pakistan with regard to the impending tour of the Sub-Committee on Western Kashmir. The Commission also studied the procedure to be followed by the Truce Sub-Committee.

At the 135th meeting, 7 March, previous to the joint meetings of the Truce Sub-Committee, the Commission received the military representatives of the Pakistan High Command for a discussion on the truce problems.

At its 136th meeting, the same day, the Commission continued, with the members of the Truce Sub-Committee, examination of the procedure to be adopted during the joint meetings.

On 8 March 1949, at its 137th meeting, the Commission received the representatives of the Government of India who had come to take up with the Commission various problems of the truce. It was agreed that the Truce Sub-Committee

would hold its first joint meeting with the Pakistan and Indian military representatives on the following morning.

On 9 March, the Truce Sub-Committee met with the delegations of India and Pakistan. Maj. Gen. Cawthorn (Pakistan Army) presented a comprehensive statement setting forth the views of the Pakistan Government on the successive steps which should be taken for the implementation of Part II of the Resolution of 13 August 1948 (Annex 10).

At the 138th meeting, held in the afternoon of 9 March, Sir Girja S. Bajpai was received by the Commission. He discussed the *aide-memoire* dated 25 February submitted to him by Mr. Huddle (United States), then Chairman and Dr. Lozano (Colombia) (see Annex 8).

At its 139th meeting the Commission considered further the various problems connected with the truce.

At its 140th meeting, 11 March, the Commission took cognizance of a letter from Sir Girja S. Bajpai dated 10 March. Sir Girja's letter (Annex 11) made it clear that the approach to the truce of the Pakistan delegation, as presented by Gen. Cawthorn on 9 March, was opposed to that of India.

At its 141st meeting, the Commission approved a reply to Sir Girja's letter of 10 March. It was decided to send Sir Girja's latest communication, with a covering letter to the Pakistan Government.

On 12 March the Commission's Truce Sub-Committee held its second joint meeting with the delegations of the two Dominions. Since the Indian delegation did not present its views in answer to the Pakistan statement of 9 March, Gen. Cawthorn declared that he did not believe it would be of any use to hold further joint meetings until the Indian Government was in a position to offer its comments or proposals. The meetings of the Truce Sub-Committee were adjourned.

At its 142nd meeting, 14 March, the Commission, after having heard the report of the Truce Sub-Committee on its meeting of 12 March, formally approved the final reply (Annex 12) to Sir Girja's letter of 10 March 1949. The letter to the Pakistan Government transmitting Sir Girja's letter and the Commission's reply was also approved.

At its 143rd, 144th and 145 meetings, 16, 17 and

18 March, the Commission continued consideration of the Truce and connected questions. It also considered the appointment of a Plebiscite Administrator.

At its 146th meeting, 21 March, the Commission approved the letter to be sent to the Indian Government on the status of the Pakistan representative who might be requested to accompany the Commission should it move to Srinagar (Annex 13). The Commission took up various questions connected with the welfare of civilian prisoners in the State of Jammu and Kashmir who allegedly were to be executed. The Commission, having been apprised of the availability of Fleet Admiral Chester W. Nimitz as Plebiscite Administrator, now took cognizance of the two Governments' agreement.

At the 147th meeting, 22 March, it was agreed that Mr. van de Kerchove (Belgium), Chairman, and Dr. Lozano (Colombia) would go to Karachi to call on the Foreign Minister of Pakistan before the latter's departure for the General Assembly.

At its 148th meeting, 23 March, the Commission considered Sir Girja's reply (Annex 14) to the Commission's letter of 21 March regarding the Pakistan representative who might be called upon to accompany the Commission to Srinagar. The Commission immediately drafted a reply (Annex 15).

At its 149th meeting, 24 March, the Commission was officially notified that Admiral Nimitz had been nominated Plebiscite Administrator by the Secretary-General of the United Nations.

At the 150th, 151st and 152nd meetings, 25, 26 March, the Commission dealt with various current matters.

The delegation composed of the Chairman and of the representative of Colombia was received in Karachi on 27 March by Sir Mohammed Zafrullah Khan. On 28 March Mr. van de Kerchove (Belgium), Chairman, called on the Prime Minister of Pakistan.

At its 153rd meeting, 30 March, in Delhi, the Commission heard the report of the visit to Karachi by Mr. van de Kerchove (Belgium), Chairman and Dr. Lozano (Colombia). The Commission also considered a letter from Sir Girja S. Bajpai

on 28 March enclosing a memorandum parallel to the Pakistan statement referred to in paragraph 26 above and giving the views of the Government of India on the Truce (Annex 16). The Commission heard an oral report by the Sub-Committee on Western Kashmir which had returned from its tour of the Azad Kashmir territory.

The Commission invited Sir Girja S. Bajpai to its 154th meeting, 30 March, to offer any further comments which the Indian Government might want to make in addition to the memorandum on the Truce which he had already forwarded to the Commission.

At its 155th meeting, 1 April, Dr. Lozano (Colombia) reported on a conversation with Sir Girja on questions of the truce.

At its 156th meeting, 2 April, the Sub-Committee on Western Kashmir presented its report to the Commission.

The Commission devoted its 157th and 158th meetings to the study of a memorandum prepared by the Truce Sub-Committee to serve as a guide for the delegations which were to approach the two Governments in order to ascertain their views on concrete proposals for the truce. It was adopted at its 159th meeting, 6 April.

On 7 April Mr. van de Kerchove (Belgium), Chairman, and Mr. Macatee (United States) left for Rawalpindi and had conversations with the Pakistan Government. Dr. Lozano (Colombia) and Mr. Leguizamon (Argentina), had remained in New Delhi for similar conversations with the India Government. On 12 April Dr. Lozano (Colombia) and Mr. Leguizamon (Argentina) joined the members in Rawalpindi in order to take part in a full meeting of the Commission, and return to Delhi with definite proposals.

At the 160th meeting, 13 April, the Commission met in Rawalpindi, and the members who had remained in Delhi reported on the conversations held with the Indian Government. During these conversations which took place on 8 and 11 April in Delhi, with Sir Girja S. Bajpai, the contents of the memorandum of 6 April (para. 54) were discussed. The Commission then decided that detailed truce proposals be drafted in the light of negotiations which had taken place to

date.

At a further meeting held on the same date the Commission considered papers submitted by the Military and Legal advisers concerning truce proposals.

At its 162nd meeting on 14 April the Commission approved the Truce Proposals and covering letters to be sent to the two Governments (Annex 17).

On 15 April Dr. Lozano (Colombia), Chairman, and Mr. Macatee (United States), Vice-Chairman, delivered to the Governments of India and Pakistan in Delhi and Rawalpindi, respectively, the Truce Proposals approved on the previous day.

Mr. Macatee (United States) Vice-Chairman, received in Rawalpindi a letter dated 15 April (Annex 18) from Mr. Gurmani requesting some clarifications of the Commission's proposals of the same date to which a reply (Annex 19) was sent next day.

In Delhi, Dr. Lozano (Colombia) received a letter dated 17 April from Sir Girja S. Bajpai submitting the Government of India's views on the proposals of 15 April (Annex 20). Dr. Lozano met Sir Girja in New Delhi on 18 April to examine the Truce Proposals with him.

The Commission then reconvened in Rawalpindi and held its 163rd meeting, 20 April 1949. It proceeded with an exchange of information and views between those members who had been in Delhi and those who had remained in Rawalpindi.

At its following meetings, the 164th and 165th, the Commission considered objections raised by the two Governments to the Proposals of 15 April and entrusted the Truce Sub-Committee with the task of submitting proposals for their revision.

At its 166th meeting, 22 April, the Commission met Mr. Gurmani, Minister for Kashmir Affairs, Government of Pakistan, who spoke comprehensively on the different aspects of the truce problem.

Revised truce terms were unanimously approved by the Commission on 26 April at its 170th meeting (Annex 21). Covering letters to the two Governments were also approved.

The Commission requested the unreserved acceptance of the Truce Terms (Annexes 22, 23).

On 26 April in the afternoon the Commission received a letter from Mr. Gurmani dealing with the question of the Northern Areas of the State (Annex 24). The Commission replied on the following day that the Truce Terms to be presented to the two Governments would deal with the question.

In the afternoon of 28 April the Commission's latest Truce Terms were delivered to the two Governments. This was done in Delhi by Dr. Lozano (Colombia), Chairman, and in Rawalpindi by Mr. Macatee (United States), Vice-Chairman.

In Delhi, Dr. Lozano (Colombia) met Mr. Gopalaswami Ayyangar, Acting Minister for External Affairs, on the 28th and 30th April, and held preliminary talks with him on the Commission's Truce Terms of 28 April. Dr. Lozano, however, was requested to await the return to the Sub-continent of Sir Girja S. Bajpai who had gone to the Commonwealth Conference in London. Upon Sir Girja's return, Dr. Lozano met him on the 8th, 12th, 14th, and 18th May and offered such explanations as were requested.

On 14 May Dr. Lozano (Colombia) met Prime Minister Nehru, who declared that his Government could not accept any proposals which might lead in the future to discussion and misunderstandings between the two Governments. Pandit Nehru referred particularly to two major points, (1) the disarming and disbanding of the Azad-Kashmir forces and (2) the right which his Government claimed to garrison strategic points in the North.

On 18 May Dr. Lozano (Colombia) received the reply of the Government of India from Sir Girja and on 21 May rejoined the Commission in Srinagar.

Mr. Macatee (United States), Vice-Chairman, held a number of interviews in Rawalpindi with Mr. Mohammed Ali, Secretary-General of the Government of Pakistan, on the 3rd, 4th and 5th May, during which Mr. Macatee supplied the Pakistan representative with the explanations he requested.

The Commission at its 173rd meeting in Srinagar, 21 May, discussed various current matters.

At its 174th meeting, 22 May, the Commission received Dr. Lozano's report on the talks which had taken place in New Delhi. Mr. Macatee (United States) informed the Commission of his conversations. The Commission, having received the reply of the Government of India, and since it could not expect the Government of Pakistan's reaction for a few more days decided to hold unopened the Indian letter in order to open the Indian and Pakistan letters simultaneously when the latter had been received. It was also decided that Mr. Macatee (United States), Chairman, would leave on the following day for Karachi to be at the disposal of the Pakistan Prime Minister.

On 23 May, Mr. Macatee (United States) met the Prime Minister and subsequently held meetings on the 24th, 25th, 26th and 27th May with the representatives of the Government of Pakistan. The discussion was centred mostly around the problem of the withdrawal of forces from the territory of the State and the question of the Northern Area.

On 30 May, the Government of Pakistan delivered to Mr. Macatee (United States), Chairman, its reply to the Commission's Truce Terms of 28 April.

At its 175th meeting, 1 June, the Commission heard the report of Mr. Macatee (United States), Chairman, and took cognizance of the replies of the two Governments to the Commission's Truce Terms of 28 April 1949.

From its 176th to 182nd meetings, 3 to 10 June, the Commission considered the replies of India and Pakistan.

The Commission at its 183rd meeting, 10 June, decided that Dr. Lozano (Colombia) would proceed to New Delhi to address himself to the competent authority in prior to determine the exact conditions on which India would agree to the Truce Terms of 28 April 1949. It was understood that Dr. Lozano's mission would be one of enquiry.

On 11 June, Dr. Lozano (Colombia) left Srinagar for Delhi and returned on 19 June bringing with him a letter, dated 17 June from the Secretary-General of the Indian Ministry of External Affairs, further defining the opinion of the Indian Government with regard to the Commission's revised Truce Terms of 28 April 1949.

The study of this communication and of the whole situation occupied the Commission during the 184th to the 190th meetings, 19 to 29 June. On 22 June the Commission decided to request Mr. Macatee (United States) to go to Karachi in prior to ascertain on what conditions Pakistan might be willing to accept the Commission's Truce Terms. He had conversations with the Minister for Foreign affairs, and the Secretary-General of the Pakistan Government. The Pakistan Minister for Kashmir Affairs was also present. Mr. Macatee reported to the Commission at its 191st meeting on 30 June that Pakistan had nothing to add and nothing to detract from what had been said in its reply of 30 May.

During its examination of the situation the Commission decided that the possibilities of further separate discussions with the two parties were exhausted. The questions of joint political meetings and of arbitration in the Truce were discussion.

The Commission decided at its 192nd meeting, as a first step to invite the two parties to a joint meeting in Karachi with the Truce Sub-Committee for the demarcation of the cease-fire line. At the 193rd meeting, 2 July, a letter of invitation to the two Governments was approved (Annex 25).

On receipt of the Commission's invitation both parties agreed to meet in Karachi for the purpose of reaching an agreement on the cease-fire line without prejudice to political or legal questions or claims. The meetings took place from 18 July to 27 July. On 27 July, after having reached complete agreement on the cease-fire line, the two delegations signed the agreement (Annex 26) which was subsequently ratified by both Governments.

From its 193rd to 200th meetings, the Commission dealt mainly with the questions of joint political meetings of the two Governments under the auspices of the Commission and with the possibility of solving the differences between the two Governments on the truce problem by means of arbitration.

At its 202nd meeting, 14 July, the Commission, in principle, agreed to invite the two Governments to joint political meetings, but to postpone its final decision until the results of the military meetings in Karachi were known.

At its 204th meeting, 28 July, the Commission was informed of the outcome of the Karachi Military Conference.

In the course of its 205th meeting, 29 July, the Commission adopted a proposal to request Mr. Samper (Colombia), Chairman, to proceed to India and Pakistan to sound out both Governments, on their reactions, to a proposal of joint political meetings for the purpose of reaching agreement on the implementation of part II of the Resolution of 13 August 1948.

In the course of the 206th meeting, 29 July, the Commission decided (with the Czechoslovak delegate abstaining) that, in the event of a non-acceptance of the idea of a joint political meeting by either or both of the two Governments, or in the event of the failure of such a political meetings, it would ask both Governments if they would agree to submit the points in dispute between them regarding the Truce to arbitration, it being further decided that, provided he were willing to be so nominated, Admiral Nimitz would be proposed as Arbitrator.

The 207th meeting, 3 July, was devoted to consideration of current matters.

On 1 August the mission which was to ascertain the attitudes of both Governments regarding a joint political meeting, left Srinagar for Delhi.

On 2, 3, and 4 August Mr. Samper (Colombia), Chairman, inquired of Sir Girja S. Bajpai and Sir Mohammad Zafrullah Khan, as well as of the Prime Minister of Pakistan on 6 August, as to their views on the possibility of joint political meetings. They accepted the principle of such meeting.

At its 208th meeting, 7 August, Mr. Samper (Colombia), Chairman, reported on his conversations in Delhi and Karachi. He drew the attention of the Commission to the fact that both Governments expected the Commission to suggest a provisional agenda for the joint meeting.

The Commission devoted its 209th and 210th meetings, 8 August, to the study of the procedure to be adopted for the planned joint political meetings.

At its 211th meeting, 8 August, the Commission sent a letter (Annex 27) to the two Governments, inviting them

to a joint meeting at ministerial level to begin in New Delhi, and enclosed in that letter a provisional agenda and a memorandum to each summarizing their points of view with respect to the Commission's Truce Terms of 28 April.

At its 212th meeting, 11 August, the Commission continued consideration of the preparation for the joint meetings.

At its 213th meeting, 12 August, the Commission examined the replied of the Governments of India and Pakistan (Annexes 28 and 29) to its invitations for the joint meetings.

At its 214th meeting, 13 August, the Commission approved the text of letters (Annex 30) to the Governments of India and Pakistan, communications to each the reply of the other with regard to the provisional agenda.

From its 215th to 218th meetings, from 13 to 17 August, the Commission made further preparation for the joint meetings.

At its 219th meeting, 18 August, the Commission took cognizance of the replies of the two Governments (Annexes 31 and 32) to the Commission letter of 13 August 1949, and after careful study of the opposed views contained in them, and of the antecedents of the problem, telegraphed both Governments (Annex 33) that the Commission had decided to withdraw its invitation to the joint meetings.

At its 220th meeting, 19 August, the Commission approved a letter (Annex 34) to the two governments notifying them of the reasons which motivated the Commission to call off the joint meeting.

From its 221st to 225th meetings, 22 to 25 August, the Commission studied the next course of action. At its 226th meeting, 26 August the Commission approved a memorandum (Annex 35) to be submitted to both Governments suggesting that the differences between the two Governments concerning the questions raised by them regarding the implementation of Part II of the Resolution of 13 August be submitted to arbitration; the Arbitrator to be Fleet Admiral Chester W. Nimitz. It was further agreed that Dr. Chyle (Czechoslovakia), Chairman, would travel to Karachi and Delhi and to present the Commission's memorandum.

Dr. Chyle (Czechoslovakia), Chairman, presented the memorandum to Sir Mohammed Zafrullah Khan in Karachi on 29 August and to Sir Girja S. Bajpai in Delhi on 30 August. He returned to Srinagar on 3 September.

At its 228th meeting, 3 September, the Commission heard the Chairman's report on his interviews with the Pakistan Foreign Minister and with the Secretary-General of the Ministry of External Affairs, Government of India.

At its 229th, 230th and 231st meetings, 5, 6, 7 September, the Commission, while awaiting the replies of the two Governments to its proposed course of action, considered various current matters.

At its 232nd meeting, 9 September, the Commission considered the replies of the Governments of India and Pakistan to its memorandum on arbitration (Annexes 36 and 37).

At its 233rd and 234th meetings, 8, 10 September, the Commission further considered the replies of the two Governments and approved the text of a letter (Annex 38) to the Indian Government for the purpose of clarifying certain points on which their seemed to be some misunderstanding. It was further agreed that Mr. Macatee (United States), Chairman, accompanied by Mr. Leguizamon (Argentina), Vice-Chairman, would travel to Delhi to present this letter with any explanatory comments which might prove necessary.

At its 235th meeting, 16 September, Mr. Macatee (United States), Chairman, and Mr. Leguizamon (Argentina), Vice-Chairman, reported on their mission to New Delhi. They brought with them a further letter (Annex 39) from Sir Girja S. Bajpai, dated 15 September, containing the Government of India's comments on the Commission's memorandum and letter of 10 September.

At its 236th, 237th, and 238th meetings, 17, 18, 19 September, the Commission further considered Sir Girja S. Bajpai's latest communication. At its 238th meeting it approved a reply (Annex 40) to be sent to Sir Girja, as well as to the Pakistan Government's answer to the suggestion for arbitration. The Commission at this meeting decided to leave the Sub-continent for Geneva to prepare its Third Interim

Report to the Security Council.

At its 239th meeting, 20 September, the Commission considered certain current matters and agreed to leave Srinagar on 23 September for Karachi and Delhi for the purpose of taking leave of the Governments before departing for Geneva.

At its 240th and 241st meetings, 21 September, the Commission approved the text of a press communique to be issued prior to its departure from the Sub-continent (Annex 41).

The Commission then left Srinagar for Karachi on 23 September, and on 24 September, after having paid a courtesy call on the Prime Minister of Pakistan, proceeded to Delhi where it took leave of Sir Girja S. Bajpai on 25 September and of Prime Minister Nehru on 26 September.

At its 242nd meeting, 12 October, in Geneva, the Commission took cognizance of the letter dated 1 October (Annex 42) from Mr. Gurmani, Minister for Kashmir Affairs, Government of Pakistan, dealing with his Government's position on the various aspects of the Truce.

At its 287th meeting, 29 November, in Geneva, the Commission received a letter dated 21 November (Annex 43) from Sir Girja S. Bajpai, commenting on Mr. Gurmani's letter of October, which had been forwarded to the Indian Government for information.

III. INTRODUCTION**A. Complaint of India before the Security Council**

On 1 January 1948 the Government of India, by a letter from its representative to the United Nations to the President of the Security Council (Annex 44) lodged a complaint against the Government of Pakistan, under Article 35 of the Charter.

In the complaint India alleged that a situation existed which was likely to endanger the maintenance of international peace and security. Such a situation existed, the Government of India said, owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the northwest, were receiving

from Pakistan for operation against the State of Jammu and Kashmir. This State, according to India, had acceded to the Dominion of India and was a part of India.

B. Pakistan's Reply and Counter-complaint

The Pakistan Government, by letter from the Minister for Foreign Affairs, dated 15 January 1948, and addressed to the Secretary-General of the United Nations (Annex 45) denied that it had given aid or assistance to the invaders of the State of Jammu and Kashmir, conceding that a number of independent tribesmen and persons for Pakistan were helping the "Azad (Free) Kashmir Government" as volunteers; that it was wrong to state that Pakistan territory had been used as a base for military operations, and that it was also incorrect that the Pakistan Government was supplying military equipment to the "invaders" or that Pakistan officers were training, guiding and otherwise helping them.

In the same communication, after contesting the validity of the accession of the State of Jammu and Kashmir to India, the Government of Pakistan brought to the attention of the Security Council, under Article 35 of the Charter, the existence of other disputes between the two Governments, and requested that appropriate measures be adopted for the settlement of these disputes and the restoration of friendly relations between the two Governments.

C. Terms of Reference of the Commission

The Security Council, having heard the statements made by the representatives of the Governments of India and Pakistan, adopted, on 17 January 1948, a Resolution calling upon the Governments of India and Pakistan to take immediately all measures within their power to improve the situation and to refrain from any acts which might aggravate it.

On 20 January the Security Council further passed a Resolution ;

- (a) setting up a Commission of three members and
- (b) investing it with a dual function :

- “(1) To investigate the facts pursuant to Article 34 of the Charter;
- (2) To exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties, to carry out directions given to it by the Security Council, and to report how far the advice and directions if any, of the Security Council, have been carried out.”

The Security Council, on 21 April 1948 ;

- (a) Resolved that the membership of the Commission established by the Resolution of the Council on 20 January 1948 should be increased to five. The Commission was subsequently constituted by representatives of Argentina, Belgium, Colombia, Czechoslovakia and the United States of America.
- (b) Instructed the Commission to proceed at once to the Indian Sub-continent and to “place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order (in the State of Jammu and Kashmir) and to the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission”. It further instructed the Commission to keep the Council informed of the action taken under the Resolution. (Annex 46). The Resolution was not accepted by either Government.

On 3 June 1948 the Security Council adopted a Resolution directing the Commission of Mediation to proceed to the area of dispute with a view to accomplishing in priority the duties assigned to it by the Resolution of 21 April 1948”, and further directed the Commission “to study and report to the Security Council when it considers appropriate, on the matters raised in the letter of the Foreign Minister of Pakistan dated 15 January 1948”.

D. Activities of the Commission from July 1948 to January 1949

Upon its arrival on the Sub-continent, the Commission found that it was confronted with a situation which the Security Council had not contemplated during its debates—that regular forces of the Pakistan Army were participating in the fighting in the State of Jammu and Kashmir.

Under the terms of the Security Council's Resolution of 21 April 1948, the Commission was instructed to induce the Pakistan Government to exercise its influence on the tribesmen and the Pakistan nationals not normally resident in the State, to withdraw from the State of Jammu and Kashmir. This accomplished, it was intended that there should follow a progressive withdrawal of Indian troops to the minimum strength required for the support of the civil power in the maintenance of law and order in the State.

Actually, the forces engaged in hostilities in the State of Jammu and Kashmir were, on one hand, the State Forces supported by troops of the Indian Army, and on the other hand assisted by Pakistan regular forces, Azad Forces, tribesmen and Pakistan nationals not normally resident in the State assisted by Pakistan regular forces. On 8 July 1948 the Commission was officially notified by the Pakistan Government of the presence in the State of three brigades of regular Pakistan force.

The Commission was also faced with the fact that the Azad Movement constituted a political and military body, engaged in an active revolt against the Government of Jammu and Kashmir and controlling an appreciable portion of the territory of the State of Jammu and Kashmir.

It was clear that the primary and most urgent task was to obtain a cessation of hostilities, and accordingly, the Commission devoted its good offices and mediation almost exclusively to that end.

The conversations the Commission held showed that the Government of India was unwilling to consider a cease-fire without provisions for the withdrawal of Pakistan forces from the State, whereas the Government of Pakistan requested an

unconditional cease-fire to be followed by consideration of the nations for a final settlement of the dispute.

In an effort to reconcile the two positions, the Commission resolved to submit on 13 August 1948 the following proposals to the Governments of India and Pakistan :

"The United Nations Commission for India and Pakistan"

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation.

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal :

PART I

Cease-fire order

- A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.
- B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or

- participating in hostilities on their respective sides).
- C. The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.
 - D. In its discretion and as the Commission may find practicable, the Commission will appoint military observers who under the authority of the Commission and with the co-operation of both Commands will supervise the observance of the cease-fire order.
 - E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further conditions.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

- A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.
- 2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.
- B. 1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A 2 here of have withdrawn, there by terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.
2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.
3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.
- C. 1. Upon signature, the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be

made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

The Pakistan Government, by letter to the Commission dated 19 August (First Interim Report, S/1100, Annex 26) stated that there were only two practical ways of dealing with the Jammu and Kashmir situation, namely :

- (1) to bring about a "cease-fire" pure and simple, such as in Part I of the Commission's Resolution, or
- (2) to attempt at the very start a complete and final solution of the entire Jammu and Kashmir question.

The Indian Government, by letter to the Commission dated 20 August 1948 (First Interim Report, S/1100, p. 32) signified its acceptance of the Commission's proposals of 13 August 1948.

By another letter, also dated 20 August (First Interim Report, S/1100, p. 35) addressed by the Prime Minister of India to the Commission, the Government of India stated that it desired "that after Pakistan troops and irregulars have withdrawn from the territory [of the sparsely populated and mountainous regions of the State in the north], the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us". In its reply of 25 August (First Interim Report, S/1100, p. 35) the Chairman of the Commission, acknowledging receipt of the Prime Minister's letter, stated that "the Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of 13

August 1948.

In a letter from the Minister of Foreign Affairs of Pakistan to the Chairman of the Commission dated 19 August 1948 (First Interim Report, S/1100, Annex 26, the former stated that "assuming that a truce could be agreed upon on the basis of the Commission's proposals [13 August Resolution], the Government of Pakistan would appreciate an indication from the Commission of the manner in which the Commission proposes, in accordance with the concluding portion of paragraph B.1, to secure a synchronised and simultaneous withdrawal of the Pakistan Forces and the bulk of the Indian Forces from the State." The Commission replied in a letter dated 27 August 1948 (First Interim Report, S/1100, Annex 27) that "in accordance with Part II B.1 of the resolution, the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, agree to begin to withdraw the bulk of their forces from the State in stages to be agreed upon with the Commission. Synchronisation of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission."

The Commission then conferred with both Governments on the possibilities of agreement on an unconditional cease-fire or, alternatively, on an amplification of Part III of the Resolution of 13 August dealing with the final settlement. These consultations led to no positive results, and on 19 September 1948 the Commission decided to leave for Europe to prepare an Interim report to the Security Council. The Commission felt that contact with members of the Security Council, as well as with representatives of the Governments of India and Pakistan attending the General Assembly, was desirable.

Before leaving the Sub-continent the Commission passed a Resolution appealing to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation. This Resolution was subsequently endorsed by the Security Council.

The Commission submitted its First Interim Report (S/1100) to the Security Council in Paris on 9 November 1948.

While in Paris, the Commission approached representa-

tives of the two Governments to explore the possibilities of an agreement on principles for a plebiscite in the State, supplementing Part III of the 13 August Resolution. As a result of these talks the Commission, on 11 December 1948, submitted to both parties proposals to serve as the basis for a plebiscite, and expressed the hope that they might "be found acceptable in their entirety by both Governments" (Second Interim Report, S/1196, Annex 3).

On the same day the Commission decided that Dr. Lozano (Colombia), should proceed to the Sub-continent to provide the two Governments with any explanations they might desire on the Commission's proposals.

These conversations led to the letters dated 23 and 25 December from the Governments of India and Pakistan, respectively, which constituted acceptances of the Commission's proposals. (Second Interim Report, S/1196, Annex 4 and 5).

On 5 January 1949 the Commission, having received from the Governments of India and Pakistan their acceptances of the Commission's plebiscite proposals of 11 December 1948, which are supplementary to Part III of the Resolution of 13 August 1948, adopted a Resolution incorporating the agreement already reached as follows :

"The United Nations Commission for India and Pakistan."

Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August 1948.

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed;

3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
- (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
- (c) The Plebiscite Administrator shall have authority to appoint such staff or assistants and observers as he may require.
4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to with due regard to the security of the State and the freedom of the plebiscite.
- (b) As regards the territory referred to in A.2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.
5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.
6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights

as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in put in this provision into effect.

- (b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purposes, shall be required to leave the State.
7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator that :
- (a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;
 - (b) No restriction are placed on legitimate political activity throughout the State. All subjects of the State regardless of creed, casts or party shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;
 - (c) All political prisoners are released;
 - (d) Minorities in all parts of the State are accorded adequate protection; and
 - (e) There is no victimization.
8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been

entrusted;

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial;
10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations;

Comments the Government of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948; and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the Resolution of 13 August 1948 and by the foregoing principles."

Since the first clause of the Commission's plebiscite proposals reaffirms the Resolution of 13 August 1948, Pakistan's acceptance of the former entailed acceptance of the latter, the Indian Government having already given its acceptance.

On 10 January 1949 the Commission presented its Second Interim Report to the Security Council (S/1196).

Meanwhile, in view of their acceptance of the proposals of the Commission, the Governments of India and Pakistan agreed to order a cease-fire which became effective one minute before midnight, 1 January 1949.

On the recommendation of the Commission, the Secretary-General appointed a Military Adviser to the Commission, who reached the Sub-continent on 1 January 1949. In order to enable the Military Adviser to assist the Commission in the implementation of Parts I and II of the Resolution of 13 August, the Commission requested the Secretary-General to

provide also for the designation of an adequate number of military observers.

The Commission returned to the Sub-continent on 4 February 1949.

IV. THE PERIOD FROM FEBRUARY TO NOVEMBER 1949

A. Task Before the Commission

Upon its return to the Sub-continent the Commission had for its guidance the Resolutions of the Security Council of 20 January and 3 June 1948 establishing the Commission as one of good offices and mediation and directing it to proceed to the area of dispute with a view to accomplishing in priority the duties assigned to it in the Security Council Resolution of 21 April 1948. It, further, was to assist the Governments of India and Pakistan in the implementation of :

- (a) its Resolution of 13 August 1948, which is comprised of three parts : Part I, the cease-fire order, already effective; Part II, the truce agreement; Part III, which is complemented by;
- (b) the Resolution of 5 January 1949, which set forth the principles to be followed in the preparation and the holding of a plebiscite in the State of Jammu and Kashmir.

It was evident that the most urgent questions were : (a) the completion of the implementation of Part I relating to the cease-fire; and (b) the establishment of details relating to the implementation of the Truce provided for in Part II of the Resolution of 13 August 1948.

B. Situation Prevailing when the Commission Arrived on the Sub-Continent

When the Commission arrived on the Sub-continent on 4 February 1949 fighting in the State of Jammu and Kashmir had ceased.

The High Commands of the Indian and Pakistan Armies

had, on 15 January, on their own initiative, held a conference in New Delhi (Annex 47). It was decided, at this meeting, with reference to Part I of the 13 August Resolution, that the cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis. As far as Part II-Truce-was concerned, the conference was of an exploratory nature. The Commanders-in-Chief agreed on certain proposals related to the Truce which were to be referred for approval to their respective Governments. The Military Adviser to the Commission was asked to take part in the conference in order to be informed of the decision and recommendations of the High Commands. The holding of this meeting and the decisions and recommendations reached were an encouraging development.

The Commission's immediate plan was to invite the views of the Governments of India and Pakistan regarding the carrying out of their commitments as embodied in the Resolution of 13 August. The Commission expected that the two Governments, moved by the same spirit which prompted them to agree to the cease-fire and the holding of the 15 January conference would reach a speedy agreement on the details for the implementation of Part II of the 13 August Resolution.

Upon its arrival in Karachi on 4 February 1949, the Commission entered into consultations with the Pakistan Foreign Minister. During these conversations, the Commission was informed that considerable progress had already been made in the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein, who had entered the State for the purpose of fighting. The Foreign Minister believed that by the middle of that month (February), the obligation of the Pakistan Government in this respect would have been fulfilled.

The following submissions were presented by the Pakistan Government on Part II of the Resolution of 13 August 1948 :

- (a) *Paragraph A. 1. in connection with B. 1.*—A plan should be prepared by which the withdrawal of the Pakistan forces and the "bulk" of the Indian forces would be synchronized. The Azad forces should be withdrawn from the forward areas for reorganization

and training. When this process was completed, these forces would replace the Regular Pakistan troops.

(b) *Paragraph A. 2.*—The Pakistan Government would complete the fulfilment of its commitments by the middle of February 1949.

(c) *Paragraph A. 3.*—It was necessary to define

- (1) "evacuated territory", in order to determine the areas under the control of both Governments.
- (2) "local authorities", which raised the question of the Azad Kashmir "Government" and the Pakistan Political Agent in Gilgit.
- (3) the scope of the word "surveillance".

(d) *Paragraph B.1* — See sub-paragraph (a) above.

In addition to the consultations on the implementation of the Truce Agreement, at the request of the Pakistan Government, certain matters relating to the Resolution of 5 January 1949 were also discussed.

Upon its arrival in New Delhi, the Commission heard the representative of the Government of India, who, while submitting the views of his Government on the Truce, indicated that he limited the scope of his submission to the broad outlines of the problem. He felt that before any of the implementation of the Truce could be elaborated, the scope and the meaning of the Resolutions of 13 August and 5 January should be clearly understood. For example, he felt that the expressions "local authorities" and "surveillance" should be well explained so as to leave no doubt. The Indian representative also mentioned the disbanding and disarming on a large scale of the Azad Forces as an essential condition to be fulfilled before any plebiscite could be held.

C. Activities of the Commission

(1) *Different Means of Negotiations*

In endeavouring to assist the Governments of India and Pakistan to carry out their commitments as embodied in the Resolutions of 13 August and 5 January, and mindful

of its character as a body of good offices and mediation, the Commission employed various procedures. On different occasions during the past year it engaged in separate negotiations; it requested the two Governments to submit their own proposals. It submitted to both parties in its own initiative compromise formulas. On numerous occasions it sent delegations to confer with both Governments. It entrusted its Sub-committees with specialized tasks. The Commission also invited both Governments to joint meetings of military representatives as well as of representatives of cabinet rank. Finally, it suggested arbitration of those differences which existed concerning the implementation of Part II of the 13 August Resolution.

(2) Completion of Part I of the Resolution of 13 August 1948
(demarcation of the cease-fire line)

When the cease-fire was announced of 1 January 1949, it was understood that the forces on both sides would remain behind the actual fighting line with such adjustments as the Commanders-in-Chief might agree on. The demarcation of a line was an important step, not only for the purpose of furthering the implementation of Part I, but in order clearly to establish the position of the forces and thus avoid the danger of incidents and violations of the cease-fire order.

On 4 July 1949, following repeated attempts to negotiate agreement on military and political aspects of the Truce simultaneously, the Commission addressed a letter to the two Governments (Annex 25) inviting them to a joint meeting for the purpose of demarcating the cease-fire line. It was stated that this meeting would be without prejudice to political issues or to future negotiations concerning the implementation of Part II of the 13 August Resolution.

The reaction in both Dominions was favourable to this initiative. The Governments of India and Pakistan accepted the invitation. From 18 July to 27 July 1949 authorised military representatives of both Governments met in Karachi under the auspices of the Truce Sub-Committee with the representative of Colombia as Chairman.

During the military talks, the Indian and Pakistan delegates conceded important adjustments in the factual positions which, until that date, had been a matter of considerable controversy and had presented serious difficulties to further agreement. On 27 July the delegations of India and Pakistan signed an agreement (Annex 26) under the provisions of Part I of the 13 August Resolution, stating that as a complement to the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, "a cease-fire line [was] established". The demarcation of this line was specified in paragraphs B.2(a) to (d) of that Agreement. It was further stated that "both sides [should] be free to adjust their defensive positions behind the cease-fire line ... [and that] there [should] be no increase in forces or defenses". It also stipulate that the Commission would station observers where it deemed necessary and that "the delegations [should] refer this agreement to their respective Governments for ratification, the documents of ratification to be deposited with the Commission no later than 31 July 1949.

Both Governments ratified the agreement and deposited with the Commission their instruments of ratification.

Although a number of minor incidents took place during the six and one half months before the cease-fire line was finally demarcated, observer teams, composed of officers from Belgium, Canada, Mexico, Norway and the United States of America headed by the Commission's Military Adviser, in close co-operation with the military authorities on both sides, greatly contributed to preventing that any of these should become major breaches of the cease-fire.

The line contemplated in the cease-fire agreement of 27 July 1949 has been completely demarcated on the ground. The Commission trusts that this step will prove to be an important contribution to the peaceful settlement of the whole dispute.

(3) Implementation of Part II of the Resolution of 13 August 1948

After preliminary discussions, the Commission felt that

it could no longer expect the two Governments, independently of the Commission, to agree on the details for the implementation of the Truce. The proposals submitted at the meeting of the two Commanders-in-Chief on 15 January 1949 were rendered inoperative, since they were not endorsed by their Governments.

Consequently, the Commission's in a letter dated 2 March 1949 (Annex 9) invited the Governments of India and Pakistan to send their civil and military representatives to meet with the Commission's Truce Sub-committee. In that letter the Commission suggested that "in order to advance the work as quickly as possible and to build upon discussions previously held, the representatives of [the two Governments] be prepared to inform the Sub-committee of the measures already taken by [them] with respect to the Truce Agreement and to present, for discussion, proposals for the further implementation of Part II of the Commission's Resolution of 13 August 1948".

The joint meetings began in New Delhi on 9 March. The first meeting was devoted largely to the consideration of the cease-fire line. The Pakistan delegation, understanding that the Indian delegation would respond in like manner in a subsequent meeting, presented a comprehensive scheme (Annex 10) for the implementation of Part II of the 13 August Resolution.

The Government of India did not agree with the premises on which the plans of the Pakistan delegation were based. The Indian delegation informed the meeting that it was unable to respond to the Pakistan delegation by presenting a similarly comprehensive plan, until a basis for agreement was reached. The meetings were adjourned. Subsequently, on 28 March the Commission received the Government of India's own views (Annex 16).

Seeking to narrow the differences on the Truce existing between the two parties, there ensued a series of conversations and exchanges of communications between the Commission and both Governments. For this purpose, the Chairman and the representative of the United States proceeded to Rawalpindi, Pakistan, to confer with the Pakistan Minister in Charge of Kashmir Affairs, while the Vice-Chairman and the repre-

representative of Argentina remained in New Delhi. These negotiations were conducted along parallel lines in each capital and were designed to explore avenues of approach which, it was hoped, would lead to agreement on the truce. The conversations demonstrated that the formula which the Commission had in mind at that time was unacceptable to both Governments. The Commission felt that they did, however, provide a basis for the formulation of a plan. At this point the Commission concluded that it should, itself, take the initiative by proceeding to draft truce proposals for presentation to the two Governments.

The Commission having been joined in Rawalpindi by the members who had remained in New Delhi, compared the reactions of each Government, and proceeded itself to draft Truce proposals (Annex 17) which were presented on 15 April to both Governments for their acceptance. Neither Government accepted them.

The answers of the two Governments furnished the Commission with views which, although still opposed, appeared to provide scope for the formulation of revised proposals.

The Commission transmitted to the Governments of India and Pakistan on 28 April under the designation of "Truce Terms" (Annex 21), proposal it deemed represented a fair compromise. In its accompanying letter (Annexes 22 and 23), the Commission stated that it considered it essent : "that the Governments of India and Pakistan agree on terms which will permit the implementation of the provisions of the truce without further delay", and expressed to both Governments the urgency which it attached to the withdrawal of armed forces from the State of Jammu and Kashmir. The Commission added that it did not believe that fruitful results would be obtained at that time from further discussions and requested from both Governments their "unreserved acceptance".

The Truce Terms of 28 April are divided in three parts :

Part I — Cease Fire Line;

Part II — Withdrawal of Troops;

Part III — General Provisions.

Part I.A.t through I.C. relating to the cease-fire line have

already been implemented as a result of the Karachi Agreement. Paragraph I.D. refers to the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. As the Government of India had repeatedly claimed the right to post and maintain garrisons at some strategic points in this region, the Commission, in an effort to meet the position of the Government of India, provided that without prejudice to the provisions of point 8 of the Resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude that it was necessary for the defence of the area, the Commission and/or the Plebiscite Administrator might agree to the Government of India stationing garrisons north of the cease-fire line, upon advice from the observers or upon reports from the Government of India.

Part II of the Truce Terms dealt with the withdrawal of troops from the territory of the State. Following the principles embodied in Part II of the 13 August Resolution, the Commission established the schedules of withdrawal of the Pakistan troops and the bulk of the Indian forces. In its covering letter to the Indian Government (Annex 22), the Commission submitted a plan for the withdrawal of the bulk of the Indian forces from the State. This suggestion was made in conformity with the terms of paragraph B.1 of Part II which stipulated that the bulk of the Indian forces would be withdrawn from the State of Jammu and Kashmir, in stages to be agreed between the Government of India and the Commission.

Part III of the Truce Terms contained various general provisions. It established :

- (a) That the territory evacuated by the Pakistan troops be administered by the local authorities under the surveillance of the Commission;
- (b) That immediately upon the acceptance of these terms the Commission will enter into consultations with the Government of India regarding the disposal of the Indian and State armed forces, and with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of

point 4(a) and (b) of the Commission's Resolution of 5 January 1949.

- (c) Other provisions which were made for the release of prisoners of war and for the publicity to be given throughout the State of Jammu and Kashmir to the fact that peace, law and order would be safeguarded and that all human and political rights would be guaranteed. The Truce Terms also provided that they should be without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.

The Indian Government answered by letter dated 18 May (Annex 48) and the Pakistan Government by letter dated 30 May (Annex 49), submitting their respective views on the Commission's Truce Terms. Neither letter constituted an acceptance, but brought out clearly that great differences of opinion still existed between the two Governments.

Following the receipt of the replies, the Commission sent a Mission to New Delhi to ascertain on what conditions the Government of India would accept the Truce Terms. A similar mission was sent to Karachi. The reports of these two missions proved significant and valuable in that both clearly revealed that the main obstacles to the implementation of Part II of the Resolution of 13 August were still unaltered; in spite of the Commission's several efforts to mediate a compromise agreement through separate consultations, the two Governments maintained, on the whole, their previous attitude towards the conditions under which they would be able to carry out their obligations.

In response to the Mission's enquiries, the Government of India addressed a letter to the Commission dated 17 June (Annex 50), followed by a further letter dated 19 June (Annex 51).

The main questions raised by the Indian Government in its above-mentioned letters of 18 May, 17 June and 19 June, 1949 (Annexes 48, 50, and 51) concern (a) the disbanding and disarming of the Azad Kashmir Forces and its relations with the withdrawal of the bulk of the Indian forces, and (b) the treatment of the sparsely populated areas of the North. The

contents of these documents are analyzed in Part V of the present report.

The position of Pakistan as regards the controversial questions was started in its reply to the Commission's Truce Terms dated 30 May 1949 (Annex 49) and later reaffirmed to the delegation sent to Karachi.

The positions of the two Governments appearing to be widely divergent on important issues, the Commission was forced to conclude, after more than three months of separate negotiations on the Truce Terms, that it must resort to another procedure. The successful outcome of the Karachi military conference and the favourable atmosphere surrounding it indicated that the Commission should endeavour to bring the two Governments together to discuss jointly the political aspects of the Truce.

The suggestion of joint political meetings was accepted by both Governments in principle. The Prime Minister of Pakistan and the Secretary-General of the Indian Ministry of External Affairs were of the opinion that, in order to create the best possible conditions for the meetings, the Commission should furnish to each the views already expressed by the other on the truce, and further, that it would be advisable for the Commission to present a tentative agenda for their consideration.

On 9 August 1949, the Commission invited the Governments of India and Pakistan to joint meetings and ministerial level to be held under the auspices of the Commission (Annex 27) for the purpose of considering the implementation of Part II of the Commission's Resolution of 13 August. A provisional agenda and a resume of each Government's views on the main points of the Commission's Truce Terms of 28 April were enclosed. It was pointed out in the letters that discussions in the joint meetings would be independent of the Truce Terms.

The replies from the two Governments (Annexes 28 and 29) indicated their agreement to meet, but already at this stage made strong reservations on the provisional agenda which the Commission had suggested.

The Commission sent each Government the reply of the

other to its invitation (Annex 30), and pointed out that the two Governments' views regarding the agenda could be examined at the initial meeting in the consideration of point 1 of the proposed agenda "Adoption of the Agenda".

Neither Government was willing to accede to the Commission's request that their comments on the agenda be withheld until joint consideration of it took place at the meetings. In its reply (Annex 32), the Government of Pakistan stated that the problem of the Azad Kashmir Forces could not be discussed at the forthcoming conference and that the whole question of the Northern Region was not only beyond the scope, but contrary to the Resolution of 13 August 1948. The Government of India, on the other hand, stated (Annex 31) that the inclusion in the agenda of these two items was essential. The Commission concluded that as a responsible body, it could not continue to sponsor meetings which seemed doomed to failure at the outset. It also shared the pre-occupation of the two Governments concerning the consequence of a possible failure of the meetings. The Commission therefore informed the Governments that it abandoned the idea of the proposed joint meetings (Annex 34).

(4) Suggestion for Arbitration

Having had to cancel the joint meetings, the Commission felt that mediation by it, under the limitations within which it was obliged to perform its task, was exhausted. As a final effort to find a solution to the Truce which was halting progress on the implementation on the Resolution of 5 January and the plebiscite, the Commission decided to ask the parties whether they would agree to submit to arbitration the points at issue.

On 26 August the Commission approved the terms of a memorandum (Annex 35), to be presented to both Governments, on arbitration of the differences existing between them concerning all questions raised to them regarding the two arbitration of Part II of the Resolution of 13 August 1948.

The Chairman of the Commission proceeded to Karachi and to New Delhi to submit for consideration the envisaged

new course of action.

By letter of 7 September 1949 (Annex 37) the Government of Pakistan informed the Commission that it agreed to the suggested course of action.

The letter of the Secretary-General, External Affairs, Government of India, dated 8 September (Annex 36) concluded by stating that the Government of India was unable to accept the Commission's suggested course of action.

The Indian reply appeared to be based on a misunderstanding. In order to offer additional explanations and to submit the Commission's further letter dated 10 September (Annex 38), the Chairman and Vice-Chairman proceeded to New Delhi.

The explanations, however, did not overcome the differences which the Government of India found in accepting arbitration, as applied to the Truce. The Commission was informed of this by letter dated 15 September (Annex 39).

In suggesting to both Governments that they agree to arbitration of the Truce, the Commission had, as a last resort in the process of placing its good offices at their disposal, envisaged a course of action that would settle the questions in which mediation had proved unsuccessful. Since this procedure did not meet with the approval of one of the Governments, it was evident that, in the circumstances, the Commission could no longer hope to continue in effective mediation of the differences, without a broader field of action. It was decided, therefore, to report to the Security Council in the expectation that a speedy solution could thus be reached.

V. ANALYSIS OF THE MAIN PROBLEMS

A. The General Problem

The present section of the report is devoted to an explanation of the overall problem and analyses of the three main difficulties, i.e.,

Disposal of Azad Kashmir Forces.

Withdrawal of regular forces from the State, and

The Northern Area.

It is designed to explain how these problems developed so as to constitute obstacles to the arrival at a truce and, as a consequence, to a solution of the dispute; and how the implementation of a truce which appeared to be a question mainly of procedure and of short duration—approximately three months—became in fact a matter of substance.

Before entering into the factual analysis of the main problems, the Commission feels that it must mention a factor more difficult to evaluate in its effects on the attitude of the Governments of India and Pakistan to each other and, therefore, to the mediation of the United Nations in the Kashmir dispute—adjustments yet to be made on various territorial, military, financial and humanitarian questions resulting from the partition of the Sub-continent; in particular, during the period of the Commission's mediation covered in this report, the two Governments encountered further difficulties concerning the problems of waterways and evacuated property which have not yet been solved although solution has been sought at several inter-Dominion conferences.

The preceding narrative of the Commission's activities has dealt broadly with the main points at issue between the two Governments in regard to the implementation of their undertakings as embodied in the Resolution of 13 August 1948 and the Resolution of 5 January 1949. The Commission has found, during its labours of the past year, that the attitude of each Government toward these points has followed as a logical consequence of those basic premises which they have adopted as regards the dispute and with which the Security Council is already familiar. Before discussing in detail the principal issues which have stood in the way of an agreement to carry out a truce, and at the risk of oversimplification, there follows a statement of the general position of the disputants as represented by them.

The Indian Position

- (a) India considers herself to be in legal possession of the State of Jammu and Kashmir by virtue of the instrument of accession of October 1947, signed by

the Maharajah of the State and accepted by the then Governor-General of India. From this basis premise, that is, the legality of her presence in the State and of her control over it, there flow logically certain corollary attitudes. The assistance which Pakistan rendered to tribesmen, who made incursions into the State, constituted therefore a hostile act; the entry of elements of the Pakistan regular Army into the State was an invasion of Indian territory. India has her armies in Kashmir as a matter of right, and controls the defence, communications, and external affairs of the State as a consequence of the fact of accession Pakistan has no *locus standi* in Kashmir.

- (b) From the fact of accession flows India's claim to be responsible for the security of the State; hence, the problem of demilitarization must take into account the importance of leaving in the State sufficient Indian and State forces to safeguard the State's security. A plebiscite in the State would be for the purpose of continuing the accession which is, in all respects, already complete.
- (c) India's claim regarding the northern areas of the State is also based on her fundamental argument. Her refusal to discuss with the Pakistan Government, or even to allow it to know the details of withdrawal of the bulk of the Indian forces is not only in line with that part of the Resolution which provides for the prior withdrawal of Pakistan troops, but follows on her insistence that Pakistan is illegally in Kashmir and has no rights in the matter. India's position on the question of the Azad Forces is not only bound up with India's pre-occupation regarding the security of the State, but involves the principle that forces which are in revolt against the Government of the State must be disbanded and disarmed. The cardinal feature of India's position is her contention that not in Kashmir by right, and that Pakistan cannot aspire to final footing with India in the contest. The Government of India, in its letter of 21 November

to the Commission reiterated just position and commented upon arguments of Pakistan (Annex 43).

The Pakistan Position

(a) Pakistan bases its case on the contention that the accession of the State of Jammu and Kashmir to India is illegal and rejects that there is any basis whatsoever for India's contention that the legality of this accession is "in fact and law beyond question". This stand was first stated in the Pakistan complaint before the Security Council in January 1948, and has been reaffirmed to the Commission as recently as on 1 October 1949 in a letter from the Minister of Kashmir Affairs, Government of Pakistan (Annex 42). Pakistan's main arguments for its case are the following :

- (1) The State of Jammu and Kashmir had executed a Standstill Agreement with Pakistan on 15 August 1947, which debarred the State from entering into any kind of negotiation or agreement with any other country.
- (2) The Maharajah of Jammu and Kashmir had no authority left to execute an instrument of accession on 26 October 1947, because his people had successfully revolted, had overthrown his Government had compelled him to flee from the capital.
- (3) The act of accession was brought about by violence and fraud and as such it was invalid *ab initio*, and
- (4) The Maharajah's offer of accession was accepted by the Governor-General of India on the condition that as soon as law and order had been restored, the question of the accession of the State would be decided "by a reference to the people". The Indian Constitution Act does not recognise a conditional accession. The action of the Maharajah and of the Government

of India has, therefore, no validity in law.

- (b) Pakistan states further that the Azad Movement was indigenous and spontaneous, the consequence of repression and misrule by the Maharajah's Government. The tribal incursions were likewise spontaneous and were the result of the reports of atrocities and cruelties perpetrated on the Muslim peoples of Kashmir and the East Punjab. The entry of Pakistan forces into Kashmir was necessary in order to protect her own territory from invasion by Indian forces, to stem the movement of large numbers of refugees driven before the Indian Army order to the Government of India from presenting the world with a *fait accompli* by taking possession of the entire State by force. Pakistani quoting clause 1 of the Commission's Resolution of 5 January 1949, to the effect that the purpose of the plebiscite is to determine whether Kashmir should accede to India or to Pakistan, rejects the Indian view that the State of Jammu and Kashmir is a part of India, a view which, Pakistan says, begs the very question which is in dispute. It is Pakistan's opinion that her action in lending assistance to the people of Kashmir is far less open to criticism than was India's intervention at the request of an autocratic ruler. Pakistan has, from the first presentation of her case before the Security Council, contested the whole of the Indian thesis. She considers herself as having equal status with the Government of India and entitled, as a party to the dispute, to equal rights and considerations.
- (c) The contention of Pakistan to equal status with India has had a direct influence on its position regarding the problems posed by the implementation of the truce: in Pakistan's view the truce should establish a balance of forces between the two parties and Pakistan asks, therefore, to be apprised of the plans of the withdrawal of the bulk of the Indian forces before signing a truce agreement. It is

Pakistan's opinion that any disbanding and disarming of the Azad Kashmir forces, which are local forces, should be balanced by a similar disposition of the State Forces or at least by a further reduction of the remaining Indian forces after withdrawal of the bulk. As regards the Northern Area question, Pakistan, apart from other arguments based on factual considerations and on the letter of the 13 August resolution, denies the claim of India to the right to assume in those territories the defence of the State of Jammu and Kashmir as a result of the established relations between India and the State.

By now it will have been seen that the three principal issues have emerged in clear focus. They must be solved before the two Governments can find themselves able to agree to proceed to as the withdrawal of forces, the question of the Azad Forces, and the question of the Northern Area. The first two issues are closely interrelated; the third issue is rather more independent. These issues have become fundamentals in the dispute between India and Pakistan over the State of Jammu & Kashmir; attitudes of both Governments regarding them stem from the premises.

B. The Azad Kashmir Forces

The Resolution of 13 August 1948 recorded one major change in the situation as contemplated by the Security Council during its deliberations in the early part of that year, namely, the presence of Pakistan troops in the State of Jammu and Kashmir. It did not, however record a second element which has developed subsequently into a serious problem in the implementation of that Resolution: The Azad (Free) Kashmir Movement whose fighting forces today number some 32 well-equipped battalions. This movement, Muslim in character, has become the centre of strong and violent resistance to the accession of the State to India. It controls a considerable part of the Western area of the State, claims to be fully organized as a Government and its political activities appear to be directed toward the accession of the State to

Pakistan. The Government of India, of course, grants no recognition to the Azad organization and holds, officially at any rate its existence to be a problem of internal public order. On the other hand, the Government of Pakistan has rendered important assistance to the Azad Movement; it has officered the Azad forces with officers of the Pakistan army. Units of the Pakistan Army itself are present in Azad Kashmir and have operated in the closest cooperation with the local forces. However, Pakistan has not given formal recognition to the "Azad Kashmir Government". In a letter dated 6 September 1948 Pakistan informed the Commission that it cannot make commitments on behalf of the Azad organization. The Commission has never negotiate with its representatives; having no international standing, the organisation can have no international responsibility.

At the time that the Commission adopted the Resolution of 13 August 1948 it had reason to believe that the Azad forces did not constitute a properly organized and equipped military force and that consequently their disposal, once the Pakistan Army had withdrawn from the State, would not constitute a major difficulty. In accepting the 13 August Resolution, India apparently agreed that these forces could be dealt with after the truce became effective. Four months later, during the conversations which immediately preceded the Commission's resolution of 5 January 1949, the Government of India stressed the importance it attached to the disbanding and disarming of these force as a condition vital to the holding of a plebiscite. The Commission agreed that a large-scale reduction and disarming of the Azad forces should take place. Provision for this was made in the Resolution of 5 January as follows :

"As regards the territory referred to in A.2 of Part II of the Resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

The Government of India now insists that arrangements for the disbanding and disarming of the Azad forces must be established before it can agree to a withdrawal of what can be qualified, even restrictive as the bulk of the Indian forces in the

State. With the passage of time India has shown a growing tendency to consider the question of the Azad the central problem in establishing a withdrawal plan. The Government of Pakistan has agreed to the principle of demilitarization of the State but insists upon a strict adherence to the terms of the 13 August Resolution—the Azad Forces should not be treated as a part of the Truce arrangements, but only at such time as the final disposal of the forces remaining on the Indian side of the cease-fire line is considered.

Following the Commission's return to Delhi, on 18 February 1949 the Government of India stated :

"The disarming of Azad forces is really a matter of chronology. First there must be a cease-fire, and after that, a truce, as envisaged in Parts I and II of the, Commission's Resolution of the 13th August, 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will *not* take place until large-scale disarming of these forces has been carried out".

The Commission shared this view and it did not run counter to the opinion of the Government of Pakistan. Subsequent developments, however, made of the matter more complex.

The Pakistan Minister for External Affairs, in his first meeting with the Commission, spoke on the implementation of the Truce and referred to the desirability of creating a Civil Armed Force from the ranks of the Azad Forces in the territory to be evacuated by the Pakistan troops; the function of this force, to be trained and reorganized by small nucleus of Pakistan officers, would be to maintain law and order in the Azad territory. This suggestion had first been put forward at a meeting of the Commanders-in-Chief held in New Delhi on 15 January 1949.

This suggestion was formally presented as a concrete proposal by the Pakistan delegation to the Commission's Truce Sub-committee on 9 March (Annex 10). The statement con-

tained a detailed plan for the reorganization and training of the Azad Forces based on the principle of creating a military balance in the State once the Pakistan regular troops have withdrawn. Mention was made of only a minor reduction in these Forces. Pakistan, under reference to Part II of the Resolution of 13 August, has maintained that any reduction in these forces would be conditional upon a reduction in the State armed forces and a reduction in the Indian armed forces beyond that of the bulk.

The Government of India (Annex II) took exception to the premises on which the Pakistan statement was based and declared that it would be impossible to accomplish a Truce Agreement along lines so fundamentally unacceptable to it. The Indian Government maintained that any arrangements with regard to the Azad forces undertaken during the Truce period should be so as to pave the way for their ultimate disbanding and disarming; it was prepared to discuss with the Commission the formation of a Civil Armed Force, not for the creation of a military balance between the forces on each side, but for the maintenance of law and order in the Azad Kashmir territory.

While a military balance would exist in the State during the Truce period in the sense and to the extent that the Resolution of 13 August does not call for the disposal of the Azad Forces, the Commission could not accept the Government of Pakistan's interpretation that "the declared objective of the truce arrangement is to create a military balance between the forces on each side...". There can be no other objective of the Truce arrangements than to establish peaceful and normal conditions throughout the State such as would be conducive to the organization and holding of a plebiscite (Annex 12).

In the Government of India's first submission on the implementation of the Truce on 28 March (Annex 16), which covered the main aspects of the matter, it was stated that as long as the Azad Kashmir Forces were not disbanded and disarmed, it would be necessary for the Government of India, in the interest of the security of the part of the State under its control, to maintain larger forces than would otherwise be necessary. The Government of India contended that the

disciplining and reorganization proposed by the Government of Pakistan would make these forces a greater menace to the security of the rest of the State and that there would be no security for those inhabitants not sharing the political views of pro-Pakistan elements, India regarded the disbanding and disarming of these forces as essential, but pointed out that a Civil Armed Force had to be created for the maintenance of law and order in the Azad Kashmir territory.

By the beginning of April 1948 it was evident that concerted action by the two Governments not only was not forthcoming, but that their views were increasingly divergent and that the Commission would have itself to draft terms for an agreement. The question of the Azad Forces was undoubtedly crucial. The Commission elaborated a general plan which envisaged the creation of a Civil Armed Force, with the assistance of Pakistan, of approximately 10 battalions. This suggestion was presented orally to representatives of both Governments—more in the nature of a sounding out than a concrete proposal. The discussions which ensued, however, proved that Pakistan was thinking along the lines of a reorganization, with only a minor reduction, of the forces which were to retain a military and not civil character. India, on the other hand, appeared then to be thinking more along the lines of the creation of a civil police force. In the later stage of the discussions the representatives of Pakistan indicated that their Government would be willing to consider a Civil Armed Force for the evacuated territory, but only after Truce Agreement had been signed and made public. Pakistan considered it impossible to persuade the Azad Forces to reduce their present strength in anticipation of a satisfactory agreement. They repeated that any reduction should be conditional upon the further reduction of Indian and State forces.

The Commission's first Truce Proposals, dated 15 April 1949 (Annex 17) do not mention the Azad Kashmir Forces. Conversations had shown that no agreement would be possible on the creation of a Civil Armed Force during the withdrawal period, and Government of Pakistan insisted that the disposal of the Azad Forces was a matter that could not be dealt with at all in the Truce Agreement.

The inability of the Government of India to accept these proposals centered around the point (Annex 20) mentioned above. Although the Government of India understood the omission to be explained by the absence of reference to the disarming of the Azad Forces in Part II of the Resolution of 13 August, it nevertheless desired that the assurance given to the Prime Minister on 22 December 1948 should be made clear beyond doubt, and that decisions to implement this assurance should be taken not later than the completion of the withdrawal of Pakistan troops [The Government of India referred to the Aides memoire (Second Interim Report, S/1196, Annex 4)] in which it appears that it was the Commission's intention that large-scale disbanding and disarming of the Azad Forces would take place as a condition precedent to the holding of a plebiscite.

The Government of Pakistan contended that there was a divergence between the proposal and the resolution of 13 August, as clarified to her, and on the basis of the points which the Government of Pakistan understood to be at variance, raised objections which, in effect, were refusal of the proposals as submitted. These points concerned, in the main, the withdrawal of troops and the defence of the Northern Area. Both of these problems are dealt with at length in the following chapter.

The Commission's revised proposals [the Truce Terms of 28 April 1949 (Annex 21)] introduced the following clauses with respect to the Azad Forces :

"III.B. Immediately upon the acceptance of these terms, the Commission will enter into consultations with the Government of India regarding the disposal of the Indian and State armed forces, and with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of point 4 (a) and (b) of Commission's Resolution of 5 January 1949.

"III.C. If, before the expiration of the seven weeks contemplated in point II. A. decisions are reached in the consultations for the initial implementation referred to in III.B. above, the schedule of withdrawal of the

Pakistan Army, as provided for in II.A. above, may be extended to three months, in order to facilitate the implementation of decision relating to point 4(b) of the Commission's Resolution of 5 January 1949."

The concept of providing for an initial implementation of Point 4 of the Resolution of 5 January 1949, through consultations with the authorities on both sides immediately upon the signature—and not completion—of the truce, represented a compromise between the desire of the Government of India that the Azad question be disposed of as a part of the withdrawal of the bulk of her forces, and Pakistan's insistence that it not be considered until the plebiscite arrangements were begun.

Extension of time for the withdrawal of the Pakistan Army was provided for in order that the Pakistan Army might assist in implementing the decisions which would ensue from those consultations. (See covering letters to the two Governments, Annexes 22 and 23).

India's reply to the Commission's Truce Terms, 18 May (Annex 48) reiterated the position taken in its previous correspondence with respect to the question of the Azad Forces and noted that the assurance which had been requested was neither given nor placed beyond all doubt. It was further noted that only "consultations.....with local authorities and not decisions were called for. The Government of India expressed its concern that nothing was said in the proposals as to what would happen if no decisions were reached within the period of the withdrawal of the Pakistan forces; it could not contemplate the eventuality that arrangements for the plebiscite might proceed even if the 32 Azad battalions remained intact. Stressing that both from the standpoint of the security of the State and the freedom and impartiality of the plebiscite the disbanding and disarming of the Azad Kashmir Forces should not be left in a state of uncertainty or be the subject of challenge and dispute, the Indian reply declared that it was of the utmost importance :

- "(1) That the agreement of the Government of Pakistan should be obtained now to the disbanding and disarming of these 32 battalions. The Commission

has already agreed to large-scale disbanding and disarming and has informed the Government of Pakistan that this is its objective. It should not therefore be difficult, if Pakistan has accepted this objective, to obtain its agreement."

"(2) The discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce is signed. Decisions on a programme designed to achieve this objective should be taken as soon as possible."

"(3) The phasing of the withdrawal of Indian troops be not divorced from, and should depend on, the progress made with the actual disbanding and disarming of the "Azad Kashmir" forces."

In answer to the Commission's inquiry as to the conditions on which India would be prepared to accept the Truce Terms, the Secretary-General of the Indian Ministry of External Affairs on 17 June 1949 (Annex 50) requested the following assurances :

"The commitment of the Commission with respect to the purpose of point 4(b) of its Resolution of 5th January, namely, the large-scale disbanding and disarming of the Azad Kashmir forces remains unquestioned. The consultations for initiating the implementation of 4 (b) referred to in paragraphs III (B) and (C) of Part III of the Commission's proposals forwarded with your letter of the 28th April, 1949 will be for the purpose of reaching decisions as to the procedure and phasing of the large-scale disbanding and disarming of these forces. Further, if, by the end of the seven weeks referred to in III(C) of the Commission's proposals, the Commission should find that the large-scale disbanding and disarming of these forces is impracticable, the conditions mentioned in (2) of the Commission's resolution of the 5th January, 1949, will be deemed not have been completed."

Other conditions in that letter, relating to withdrawals and the North Area, as will be shown, went considerably beyond the scope of the proposals.

Neither was the Pakistan reply of 30 May (Annex 49) an

acceptance of the Commission's Truce Terms. As regards the Azad Kashmir Forces the Government of Pakistan understood that it was intended to associate the Plebiscite Administrator with discussions which dealt with the final disposal of forces in the State, not under the terms of the Truce, but under the Resolution of 5 January 1949. The Commission could of course readily agree that the Plebiscite Administrator Designate participate in the taking of decisions which affected the conditions for the plebiscite. However, the Pakistan Government added that it understood extension of time for the Pakistan withdrawal only to be so as to reorganize the Azad Kashmir Forces and not actually to implement decisions within that period of time, and defined the understanding by declaring that "the actual implementation of the decisions will start only after Parts I and II of the Commission's Resolution of 13 August, 1948 have been fully implemented." This was clearly contrary to the position taken by the Government of India.

At this juncture the Commission unanimously decided that it was useless to continue to negotiate separately with the two Governments since four months of repeated efforts had not brought the parties any closer to an agreement. To overcome the difficulties inherent in modifying the proposals by consulting first one and then the other of the parties, a joint meeting at ministerial level was suggested. As before, the question of the Azad Forces was immediately raised by the two Governments, this time in their observations on the procedural question of a provisional agenda. The Government of Pakistan in its letter dated 16 August (Annex 32) stated that the question of the disarming and disbanding of the Azad Forces "cannot be discussed during the forthcoming truce talks". India, on the other hand (Annex 31) insisted that the inclusion of this subject was "essential".

India, in not accepting the course of action contained in the Commission's last suggestion, which was that the differences arising out of the implementation of Part II be submitted to arbitration, informed the Commission that it declined to make any practical distinction between the Pakistan Army and the Azad Forces, which, India stated, having been armed, organized and trained by the Pakistan Army, were today in

reality part of the Pakistan Army, and that they should be disbanded at the same time as the Pakistan Army withdrew. The Indian Government declared that,

"this outstanding issue . . . is not a matter for arbitration but for affirmative and immediate decision" (Annex 36).

" . . . the large-scale disbanding and disarming of the 'Azad Kashmir' forces on which, apart from other considerations, depends the phasing of the withdrawal of Indian forces under B.1 of Part II of the Resolution of 13 August 1948, is no more a matter for arbitration than the complete withdrawal of the Pakistan forces" (Annex 39).

The Pakistan Government accepted without comment the course of action proposed by the Commission in its memorandum on arbitration.

There is, indeed, no doubt that Azad forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the Azad Kashmir Pakistan is actually increased since August 1948, there is no question that those forces, who have since then been working in close cooperation with the Pakistan regular army and who have been trained and officered by that army, have increased their fighting strength. It is reasonable to suppose that if the Commission had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the Azad territory, the Commission would have dealt with this question in Part II of the Resolution of 13 August.

It cannot be said that either side has complied with the letter of Part I, Section B of the Resolution which prohibits any increase of military potential by either country in the territory of Jammu and Kashmir.

C. *Withdrawal of Forces*

As a result of the Cease-fire Agreement and the demarcation of a line on the ground, the State of Jammu and Kashmir at present is divided into two areas : the part of the State east and south of the cease-fire line is occupied by the Indian Army with the State Forces and the Jammu and Kashmir Militia under its command, and includes the Valley of Kashmir and Jammu; the territory west and north of the cease-fire line is under Pakistan control, and includes Western Kashmir adjoining Pakistan and the large mountainous territory to the north.

Four principles were agreed to by the Governments of India and Pakistan in connection with the withdrawal of forces from the State : by Pakistan, that (a) her troops are to withdraw from the State; and that (b) she will use her best endeavours to secure the withdrawal of tribesmen and Pakistan nationals not normally resident in the State who entered for the purpose of fighting; by India, that (a) she will begin to withdraw the bulk of her forces in stages to be agreed upon with the Commission once the Commission has notified her that the tribesmen and Pakistan nationals have withdrawn and that Pakistan forces are being withdrawn; and that (b) the Government of India will maintain within the lines existing at the moment of the cease-fire such forces as are considered necessary to assist local authorities in the observance of law and order.

In early March the Commission received the first concrete indication of the manner in which one of the parties envisaged the implementation of the Truce. A statement was presented by Pakistan to the Truce Sub-committee (Annex 10) which dealt in detail with proposal for the reorganization of the Azad Forces in conjunction with the withdrawal of the regular forces, a programme which was suggested to take place within a period of three months. It also commented on the Indian withdrawal plan. Two statements in this document brought into clear relief the divergence of the view points with respect to the truce problem divergence which was constantly to be the source of disagreement in future negotiations ; the Pakistan delegation held (a) that the objective of the truce agreement is to create a

military balance between the forces on each side and (b) that the withdrawal of her regular forces depended upon plans acceptable to the Pakistan Government for the synchronization of this withdrawal with that of the bulk of the Indian forces.

India, on the other hand, has (a) never accepted the claim of Pakistan to equality of rights in a military or any other sphere, but considers that the presence of Pakistan troops in Kashmir constitutes an act of aggression and a violation of international law; and (b) has refused to discuss with Pakistan any feature of the withdrawal of Indian forces, maintaining that the timing and staging of the Indian withdrawals and the strength of Indian forces to be retained in the State were matters for settlement between the Commission and the Government of India. The Government of India at this time also made it clear that the fulfilment by the Government of Pakistan of the condition of withdrawal was a condition precedent to the implementation by the Government of India of any arrangement regarding the withdrawal of its own forces. (Annex 11)

The Truce Sub-committee meetings in March led to no agreement with respect to the implementation of Part II of the Resolution of 13 August 1948. The Indian delegation found that the Pakistan statement involved political considerations and declined at that time in the Sub-committee to present its comprehensive views. The resulting correspondence, however placed the Commission face to face with the conflicting interpretations which it would have to reconcile if a Truce were to be arrived at.

On 28 March 1949, the Government of India declared (Annex 16) that it was prepared to accept a period of three months for the completion of the withdrawal of Pakistan forces and for the creation of a Civil Armed Force to maintain law and order in the Azad Kashmir territory. The memorandum, which was in the nature of a response to the Pakistan delegation's presentation before the Truce Sub-committee, also contained a suggested schedule for the withdrawal of Indian forces. In this memorandum the Government of India stated that it was not willing to disclose its own programme to the Government of Pakistan, until a satisfactory agreement

had been reached regarding the withdrawal of Pakistan forces and the replacement of the Azad Kashmir Forces by a Civil Armed Force.

With these issues in mind, and constrained to formulate suggested terms within the framework of Part II of the 13 August Resolution, which makes an important distinction between the withdrawal of the Indian and Pakistan forces, but makes no reference to the disposal of the Azad Forces, the Commission began the study of proposals which it might submit for the approval of both Governments.

The first proposals were submitted on 15 April 1949. As regards the withdrawal of forces the proposals strictly followed the procedure indicated in Part II of the Resolution of 13 August 1948. A period of 7 weeks was envisaged for the complete withdrawal of Pakistan troops. In a covering letter to the Government of India a plan was suggested for the withdrawal of the bulk of the Indian forces to take place within a period of three months. The Commission's proposals of different time limits for the withdrawal of the Pakistan and Indian forces was determined by the inadequacy of road conditions between Kashmir and India and the differences in terrain and distances between forward area in Kashmir and base areas in India and in Pakistan. For Pakistan, withdrawal is comparatively easy to achieve and can be quickly carried out. For India it is a more difficult and longer military operation.

In its reply, the Pakistan Government again raised the question of synchronization for the withdrawals and the request to be apprised of the proposed programme of withdrawal for Indian forces. The Commission replied that it would find itself in a position to disclose the schedule of withdrawal of the bulk of the Indian forces when agreement there on had been reached with the Government of India, and when both Governments had indicated their agreement to the other provisions of the 15 April proposals. The Commission also reiterated its statement (First Interim Report, S/1100, Annex 27) that synchronization of the withdrawals would be arranged between the respective High Commands and the Commission.

In response to the Commission's proposals of 15 April, the Indian representative (Annex 20) said that the presence of thirty-two battalions of Azad Kashmir Forces was a factor which the Government of India had to take into account in determining the phasing of its withdrawals. He pointed out that during the seven-weeks period for the withdrawal of Pakistan troops, the Government of India could not, with due regard to the security of the State, to the maintenance of law and order, and to the sealing off of the border against unwarranted infiltration, withdraw more than twelve battalions. (This reduction was considerably less than had been suggested in the Commission's plan for the three-months' period and in no case could be considered to constitute the bulk of the Indian forces.) He wrote that further withdrawals would depend upon and would have to be regulated according to the actual disbandment and disarming of the Azad Kashmir Forces.

The Commission revised its proposals and submitted the Truce Terms on 28 April 1949.

In an effort to meet the request of the Government of India with respect to the Azad Forces, the Commission introduced a provision under which it would enter into consultations with the local authorities for the disposal of those forces immediately upon the acceptance of the Truce Terms. Although the period for the withdrawal of Pakistan forces was maintained at seven weeks, provision was made for its extension to three months, in order to allow the Pakistan Army to participate in the reorganization of the Azad Forces, should decisions be reached during the consultations. The Commission still could not meet Pakistan's demand that she be informed of the withdrawal plans for the Indian forces, but it informed the Pakistan Government that the withdrawals would be faithful to the Commission's Resolution of 13 August and would represent a coordination in timing which, in the Commission's view, would constitute a synchronized action.

In replying to the Commission's Truce Terms of 28 April (Annex 21) the Government of India did not specifically deal with the question of withdrawals, but in a further reply to the Truce Terms dated 17 June (Annex 50) the Indian

Government presented its own scheme for the withdrawal of its forces, reaffirming its reference to the interdependence of the phasing of the withdrawal of Indian forces and the progress made with the disbanding and disarming of the Azad Kashmir Forces. India asked that her scheme not be communicated to the Government of Pakistan until a Truce Agreement had been arrived at. The Indian plan was, in the opinion of the Commission, far from a fulfilment of India's undertaking under the terms of the 13 August Resolution.

The response of the Government of Pakistan to the 28 April Truce Terms (Annex 49) deals at length with the withdrawal problem as conceived by the Pakistan Government. Again the obstacles to Pakistan's acceptance of the Truce Terms refer mainly to the synchronization of the withdrawals in accordance with a programme which can only be achieved, in Pakistan's view, if both High Commands have full information with respect to each withdrawal. The Pakistan Government's letter pointed out that the terms as presented to it gave no information as to the strength and composition of the Indian forces which were to be withdrawn, of the time during which the Indian forces would withdraw from the State, nor of the stages of withdrawal of the Indian forces. Complaining of the lack of information, the Pakistan Government stated that :

"The only fact known to them, namely that the time allowed for the withdrawal of the bulk of the Indian forces is longer than the time allowed for the withdrawal of the Pakistan Army, appears to them to nullify the provision for a synchronized withdrawal promised by the Commission and to create a disequilibrium of forces after the period of seven weeks allowed for the withdrawal of the Pakistan Army."

Pakistan has been consistent throughout in her contention that the withdrawal of the forces on the two sides should be synchronized, that is, in the opinion of the Pakistan Government, that they should take place simultaneously and be arranged in such a manner as to obtain a balance between the remaining forces. This position is fundamentally opposed to the contention of the Government of India and has proved irreconcilable with it. The Pakistan Government bases this

position on a statement contained in a memorandum annexed to a letter from the Commission of 27 August 1948 (First Interim Report, S/1100, Annex 27). The Government of Pakistan had requested an indication from the Commission of the manner in which the Commission proposed "to secure synchronised and simultaneous withdrawal of the Pakistan Forces and the bulk of the Indian Forces from the State." The Commission, in replying, quoted Part II.B. 1 of the Resolution to indicate that no simultaneity was intended, and added that synchronization would be arranged between the respective High Commands and the Commission.

The Commission's reply regarding synchronization cannot be interpreted out of the context of the Resolution which, as has been pointed out, draws a distinction between the withdrawal of Indian and Pakistan forces. Pakistan troops are to begin to withdraw in advance of the Indian troops and their withdrawal is not conditioned on Pakistan's agreement to the plan of the Indian withdrawal. The Commission's reference to synchronization should be interpreted to mean that discussions with the Government of India concerning the withdrawal of the bulk of its forces would ensue without delay and lead to the establishment of a time sequence for the two withdrawals agreed upon between the respective High Commands and the Commission after the acceptance of the Truce Terms by both Governments. The Commission was not able to share the view of the Government of Pakistan that the only method of assuring this form of synchronization was by the full and free exchange of information between the Indian and Pakistan Governments regarding withdrawal plans. It was feasible, in the Commission's judgment and the Commission's military adviser had this in mind, that the arrangements could be coordinated and supervised by the mediation party, namely, the Commission, so as to cause the two withdrawals to represent a dual operation which would be coordinated in timing and would result in a military situation in the State which was not such as to place either side at a disadvantage.

The Pakistan Government could not in reason expect, nor could the Commission have granted, a "synchronization" which would have been incompatible with the terms of the

Resolution of 13 August. That Resolution does not suggest that Pakistan should be entitled to make her withdrawals conditional upon the consultations envisaged between the Commission and the Government of India having led to an agreed schedule of withdrawal of Indian troops. What Pakistan could expect would be that assurance be made that the withdrawals of the two armed forces be arranged and carried out in such a way as to prevent the creation of a situation which might constitute an opportunity for one or the other party to reopen the hostilities. The danger of such an eventuality should not be overemphasized.

The Commission did take into account Pakistan's concern that the withdrawal be synchronised. It repeatedly assured the Pakistan Government that this would be evident in the agreement itself, and it must be noted that the terms were to be published in full immediately upon the acceptance of the two Governments. The withdrawal plan for the Indian forces, a part of that agreement, was consequently, to be published in advance of implementation by either side.

As has been seen from the discussion of the Azad problems, and from the foregoing discussion on withdrawals, India is not prepared to withdraw such part of her forces in Kashmir as might be characterized as the "bulk" whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbanding and disarming of the Azad Forces is reached. Indeed, the Indian Government no longer discusses the withdrawal of her forces in terms of their "bulk" alone. Changes in the military situation in the State have occurred which, in the view of the Government of India, must condition the strength of forces which India can withdraw from the State and which, in her opinion must be taken into account in applying the terms of Part II of the Resolution. The importance which the Government of India attaches to these changes has so conditioned the forces she is willing to withdraw, that the Commission has been unable to agree on a plan which would comply with the provisions of Part II of the Resolution of 13 August 1948.

As long as the Government of India maintains its position that Pakistan should not have information regarding

the nature and timing of the Indian withdrawal before acceptance of the Truce by both parties, and as long as Pakistan considers that this information alone will vouchsafe beforehand that synchronization in the withdrawals is provided for the prospects for an implementation of the Truce are remote.

The Commission has tried to obtain India's agreement to communicate to Pakistan the Indian proposals, or in any event the Commission's proposals, but without success. In its last communication to the Commission on the subject (Annex 51) the Government of India reiterated its stand that the question of the forces which India should retain in the State was a matter entirely between the Commission and India.

Replying to the Commission's proposal that the issues relating to the Implementation of Part II of the 13 August Resolution be settled by arbitration, the Government of India reaffirmed this position. In its letter of 8 September 1949 (Annex 36) the Government of India stated that "Once ways and means for the large-scale disbanding and disarming of the Azad Forces have been agreed upon, the Government of India anticipate no difficulty in reaching agreement with the Commission as provided for in P. 1 of Part II of the Resolution of 13 August 1948, about the phasing of the withdrawal of their forces from the State. Nor would they raise any objection to the Pakistan Government being informed of the programme of the withdrawal of Indian forces once the question of the disbanding and disarming of the Azad Forces has been disposed of and Pakistan has begun to withdraw its forces."

In essence, the problem of the withdrawals lies in the fact that the sequence for the demilitarization of the State, as contained in the Commission's Resolutions of 13 August and 5 January, is not adequate to solve the present situation. The situation in the State has changed; the Resolutions remain unchanged. Again in this question, the Commission endeavoured to find means of reaching an agreement without contravening the terms of the Resolution, but, taking into account the changes that have occurred in the situation, it found that the Government were strict in adhering to the letter of those clauses which met their position.

The conclusion to be drawn from the experience of the

Commission during the past year, and from the attitudes of the two Governments as regards the withdrawal problem is clear : developments in the State during the past year necessitate a modification in the original plan of demilitarization. Such a modification must treat the problem of demilitarization as a whole, eliminating all distinctions and comprising all questions concerning the final disposal of all armed forces in the State of Jammu and Kashmir.

D. The Sparsely Populated and Mountainous Areas in the North of the State

In order properly to appreciate the special character of the territory the north, it should be borne in mind that this vast area is extremely mountainous, the ranges forming a part of the Himalayas. There are passes that reach between 12,000 and 19,000 feet. The area forms the basis of the river Indus and only the routes along this river remain open throughout the year. The sparse population consequently is concentrated in the river valleys, with few, if any, major centres, and facing great difficulties of communication. The land tracks which must cross the passes, are used by traders for only some five months in the year.

The Government of India first referred specifically to this area, and established its claim with respect to in August 1948, on accepting the Resolution of 13 August 1948. The Prime Minister wrote (First Interim Report, S/1100, p.35) that "The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistan troops..... We desire that after Pakistan troops and irregulars have withdrawal from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us..... We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen...and to guard the main trade routes from the State into Central Asia."

During the first six weeks of negotiations in 1948 the Commission was occupied almost exclusively with bringing about an agreement between India and Pakistan on the cease-fire. Although at that time resistance was being offered to the authority of the State of Jammu and Kashmir and sporadic fighting did take place in the north, regular forces of the Indian and Pakistan armies were not fighting in that area of the State. The conflict took place in the west where the Azad-Kashmir Movement has its headquarters. The Commission was informed by the Foreign Minister of Pakistan in July 1948 that regular Pakistan troops went into Kashmir (a) to prevent an Indian *fait accompli* in the State, (b) to halt the influx of refugees entering Pakistan from the east and (c) to ward off the danger of an armed attack upon Pakistan.

Subsequently the Commander-in-Chief of the Pakistan army defined the purpose of sending Pakistan troops into the State to be the holding of the general line Uri-Poonch-Naushera. This line runs north-south along Western Kashmir. The Commission had, the refore, not given particular consideration to the situation which would arise in the Northern Area with the cease-fire; nor did the Commission at that time, under the stress of the urgency with which both Governments viewed the state of "undeclared war" have the time nor the facilities to investigate on the spot the situation to the north. The Commission in reply (First Interim Report, S/1100, p.35) to the Prime Minister stated that because of the peculiar conditions of the area, it did not specifically deal with the military aspect of the problem in the Resolution of 13 August and added that it believed that the question raised in the Prime Minister's letter could be considered in the implementation of the resolution. However this statement cannot be taken as a commitment but as an intention to study at later date the best means for dealing with a special situation.

From the outset of the Commission's activities in February 1949 the contested issue of the administration and defence of the Northern Area was one to which both Governments attached great importance. The conflicting interpretations in this regard were first made clear during the Commission's Sub-Committee meetings in March. The

military representatives of India declared that they were not in a position to treat the cease-fire line in the North on the same level as the cease-fire line in the west since their Government considered that the former entailed political considerations and had to be dealt with independently and in the light of the Prime Minister's reservations as quoted above. The Pakistan representatives, on the other hand, advanced the argument, which was consistently maintained throughout the future negotiations, that the area to the north was as much a part of the evacuated territory as the area to the West and that both were under the effective control of the Pakistan High Command; they could not admit to any claim by the Government of India which would entitle her to advance beyond the positions occupied at the moment of the cease-fire nor that the State Government should be permitted to extend its administrative authority.

The Government of India on 28 March suggested a line which it wished to see established. This line included the territory which the Government of India felt answered the description given in the Prime Minister's letter of 20 August 1948. The Government of India stated that it did not intend to garrison these sparsely populated portions extensively, but that all its proposed to do was to maintain garrisons at selected points.

On 13 April the Secretary-General, Ministry of External Affairs of the Government of India, sent the Commission a statement on his Government's views with respect to the truce. In it were further defined the strategic points which, in India's view, should be garrisoned by Indian armed forces. Fifteen points were mentioned. The Government of India expected that in addition to these points it would retain the right to patrol the intervening areas.

The claims of the Government of India in this connection were entirely counter to Pakistan's views on the matter. The representative of Pakistan were unwilling even to consider the Northern Area as requiring separate or special treatment. There was no question in the minds that the provisions of Part II of the Resolution of 13 August applied equally to all parts of the State where fighting had taken place and where

armed forces were facing each other. Since Pakistan maintain that this area had always been under its effective control, it drew the conclusion that any provision made in the light of India's claim would be a contravention of the Resolution of 13 August under which the territory evacuated by the Pakistan troops was to be administered by the local authorities under the surveillance of the Commission.

The Commission wished to comply with the offer made to the Government of India in August 1948 that the question could be considered in the implementation of the Resolution. It did so in every attempt which was made to secure agreement on a truce. It gave serious consideration to India's position, which was based on legal claims, and to her contention that in acceding to the creation of an evacuated territory in Western Kashmir over which she was to have no control pending a final solution, she was not to be expected to assent in the creation of another such territory in the North which India considered of importance to the defence of the State and of the trade routes to Central Asia. However, the Commission was equally bound to keep foremost in mind that the truce agreement was meant to be only an instrument by means of which the State was to be demilitarised and that the duration of this interim period was a short one. The Commission could not envisage a situation whereby extension of military activity of any sort might take place, nor could it be headless to the likelihood of armed resistance by the local population should Indian forces be garrisoned beyond the cease-fire line.

The Commission's first truce proposals of 15 April provided that "In the sparsely populated and mountainous region of the territory of Jammu and Kashmir to the north. Observers will be stationed who, in the event that the defence of this territory becomes necessary, will so advise the Commission. The Commission, in this case, or at the request of the Government of India, may agree that the Government of India post garrisons at specified points of this area."

This formula was regarded as an equitable compromise between the opposed views of the two Governments; it minimized the possibility of a renewal of fighting, yet took into consideration India's claim to responsibility for the defence of

the State. However, both Governments expressed their dissatisfaction with it.

The Government of Pakistan presented a lengthy statement of its views regarding the area in question (Annex 24). It contested the basis of the Indian claim to post garrisons in the area, stating that "ever since the overthrow of the Dogra Regime [the Maharajah's Government the territory has been firmly under Azad control and has been properly administered." The Government of Pakistan argued that the military operations in the area for over eight months proved that there was no basis in fact in the Indian statement that the Maharajah's administration in this area remained undisturbed except by "roving bands", but represented instead the resistance of an organized and determined force of local men who fought the Indian armed forces; and pointed out that after the overthrow of the Maharajah's regime in October 1947, the Maharajah's Government had never recovered its hold over any part of the territory. The Pakistan Government further argued that there was no real danger of any tribal incursion, since such an incursion could only take place through territory held by Pakistan and Pakistan has given assurance to deal effectively with this contingency; and that Pakistan would be in a better position to deal with the hypothetical possibility of foreign aggression from the north. In any case, according to Pakistan, any act of foreign aggression would be a matter for the Security Council to consider. It could not be regarded as the sole or primary concern of India. In addition, Pakistan introduced economic, hydrographic and administrative considerations in favour of the thesis that the Northern Area is not integrated with the Kashmir Valley, but is instead more closely related to Pakistan.

Additional to the paper noted above, the Pakistan Government on 26 April 1949, recapitulated why it regarded the proposal to post Indian troops in the area north of the cease-fire line as a contravention of the Resolution of 13 August 1948. The Government of Pakistan laid stress on their understanding that the area in question is "evacuated territory in precisely the same way as the area west of the cease-fire line and referred to the Commission's letter of 3 September 1948

in which it is stated that "... 'evacuated territory' refers to those territories which are at present under the effective control of the Pakistan High Command. Since Pakistan maintains that the Northern Area already in August was under the tactical control of the Pakistan Army, it considers that the area should be treated as "evacuated territory" for the purposes of the truce. Further it pointed out that the Indian forces are to be "posted within the lines existing at the moment of the cease-fire."

In replying to the 15 April proposals the Government of India reaffirmed its request that it be allowed to maintain garrisons at strategic points. It felt that the question of the administration of the area could be discussed separately (Annex 20)

In spite of the views of the two Governments, which remained firmly opposed, the Commission did not feel that it could in good conscience compromise on what it considered not only a fair proposal but one which would best achieve the purposes of the truce. The Commission did not ignore India's claim to the right to safeguard the security of the State nor did it put into question the legality of the Jammu and Kashmir Government. It had, nevertheless, to consider, as a Commission of mediation for the preservation of peace, the danger should Indian forces other than in an emergency, be permitted to occupy garrisons in an area which was declaredly hostile to those forces and to representatives of the State Government. The Commission was obliged to reaffirm, in a modified form, the principle it had already recommended to both Governments on 15 April.

In the Commission's revised proposals, that truce terms of 28 April, the problem was dealt with as follows :

"Observers will advise the Commission and/or the Plebiscite Administrator regarding developments in the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. Without prejudice to the provisions of point 8 of the Resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude upon advice from the observers, or upon reports from the Government of

India, that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may request the Government of India to post garrisons at specified point."

In its reply to the truce terms on 18 May 1949 (Annex 48) the Indian Government repeated that the principle that Indian troops should garrison important strategic points should be accepted. The Government of India suggested that the points to be so occupied be the subject of discussion with the Commission, and again remarked that the question of the administration of this area be left over for the time being.

In a further letter, dated 17 June, commenting on the Commission's truce terms (Annex 50) the Government of India referred to the fifteen strategic points in the Northern Area at which it believed India garrisons should be maintained. It now stated that it would be willing to occupy only seven points in the expectation that all regular and irregular Pakistan forces will be withdrawn from the State. Should this expectation not be realized or should a threat to the security of the State or the maintenance of internal order arise from any other source, the Government of India desired to be free to garrison any or all of the fifteen points mentioned previously. India explained that she felt compelled to make this reservation because she believed that measures taken by Pakistan such as the construction of roads, the provision of arms and supplies to points like Skardu could, in the view of India, means only that Pakistan did not wish to withdraw from the territory or, after withdrawal, intends that those who stay behind can create turmoil.

In connection with the Northern Area, the reply of the Pakistan Government to the truce terms referred to Pakistan's previous correspondence on the subject and summarized four considerations in view of which the Pakistan Government again submitted that the proposal was not in accord with the Resolution of 13 August 1948, and "is unnecessary and, far from assuring peace and tranquility in this area, is likely to create conditions of unrest and insecurity." The Government of Pakistan repeated (a) that the posting of Indian garrisons in the area is contrary to the provision in the resolution which

permits the retention of Indian troops only in the lines in existence at the time of the cease-fire; (b) the proposal conflicts with the definition already mentioned above (para 263) and contained in the Commission's letter of 3 September, as well as with the assurance that neither the Government of India nor the Maharajah's Government will be permitted to send military or civil officials to the evacuated territory; (c) the proposal appears unnecessary since the threat envisaged might arise either from tribesmen or from a foreign power and in neither case is the Government of India indicated to safeguard the security of this area. Arguments to substantiate this contention are set out in the Pakistan reply.

In the correspondence between the Commission and the two Governments regarding the agenda for the proposed Joint Meetings the question of the inclusion in the agenda of the problem of the Northern Area was immediately raised. The Government of India, in its letter of 18 August (Annex 31) stated that it considered the inclusion in the agenda of the subject of the administration and defence of the Area as "essential". The Government of Pakistan, on the other hand, in its letter of 16 August (Annex 32) stated that India's desire that the question of the responsibility for the administration and defence of the Northern Area be clarified at the Joint Meeting "... is not only outside the scope of the proposed joint truce talks but is contrary to the clear provisions of the 13 August Resolution and cannot be entertained."

The Pakistan Minister for Kashmir Affairs referred, in his letter of 26 April 1949 (Annex 24) to the Commission's letter to the Foreign Minister of Pakistan of 3 September 1948, which defined "evacuated territory" as referring to the territories in the State of Jammu and Kashmir which were at that time ("at present") under the effective control of the Pakistan High Command. The Pakistan Minister contended that this definition brought the whole of the northern area inside the "evacuated territory" and for this reason no officials of the State Government, nor any Indian troops, should be given access to the territory.

It seems, however, very doubtful whether the northern area were in fact in the autumn of 1948 under the "effective"

control of the Pakistan High Command, in the sense that the Commission understood the term "effective control". The Pakistan Government (Annex 24) stated that *no* Pakistan regular troops at any stage were employed in the operations which took place between May and December 1948. Only one Pakistan officer, Commandant Gilgit Scouts, exercised "overall tactical and administrative control" in the area. But at the same time it is true that the local population was in active and organized resistance to the Indian Army. It was precisely because the Commission understood "evacuated territory" to mean that territory in Western Kashmir where regular forces of the Pakistan army were operating and assisting the Azad Kashmir forces that the Commission in August stated to the Prime Minister of India that the question of the military aspect of the territories to the North of the State had not been dealt with in the Resolution of 13 August. The Commission was informed that it was for the defence of the western area that the Pakistan regular forces had entered the State of Jammu and Kashmir.

While the Indian claim may have been based on valid arguments at the time it was first made in August 1948, (the Pakistan Government has said that there was no basis in fact to the claim even then), the Commission was faced with the incontrovertible fact that in March of the following year the validity of India's arguments was open to question in the light of the Commission's objective. The authority of the State Government had not only been challenged; by 1 January 1949, the authority of the Jammu and Kashmir Government had been eliminated from the area. The entry of Indian forces into the area north of the cease-fire line would almost inevitably lead to a renewal of hostilities. In consequence the Commission could expect that the Government of India, taking into consideration the wholly temporary nature of the truce, would be willing to waive a claim which was to be decided shortly thereafter in the preparation of conditions for the holding of the plebiscite. Neither Government however has been prepared to keep that consideration actively in mind when defining their positions vis-a-vis the withdrawal and reduction of armed forces in the State.

When it drafted the 13 August Resolution the Commission did not consider the northern area in the same light as it did Western Kashmir. However, by January 1949 Pakistan undeniably held military control over the northern areas; the area was administered by local authorities, not of the Jammu and Kashmir government, with the assistance of Pakistan officials. The spirit of the 13 August Resolution had to be observed. Its underlying principle was the withdrawal of forces from the State, the reduction, not the extension of military activities. It contemplated, and expressly stated, that the Indian Government would maintain within the lines existing at the moment of the cease-fire those forces of its army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order.

The situation in the Northern Area to-day is such that the posting of garrisons by the Indian Army at any point beyond those which are now held by it would result in an extension of military activities by the Government of India although it need not necessarily imply an increase in the military potential which both Governments have agreed is not to take place on either side.

The Karachi Military Conference of July has settled the question of the cease-fire line. The line is now demarcated and agreed to by India and Pakistan. Until such time as the conditions envisaged in the Resolution of 5 January have been created and normal life begins to return to the State of Jammu and Kashmir, the line which is today a guarantee against a resumption of hostilities should be scrupulously observed by the Governments of India and Pakistan and the opposing forces should remain behind it.

VI. CONCLUSIONS

The Commission has endeavoured in the previous chapters to present an objective and factual report on its activities on the Sub-continent from February to September 1949.

The roots of the Kashmir dispute are deep; strong under-currents-political, economic, religious-in both Dominions have

acted, and do act, against an easy and prompt solution of this outstanding dispute between India and Pakistan. These currents which at this early stage of national formation are often antagonistic and account to a considerable degree for the misgivings, reluctance and hesitancy, which the Commission felt were often present in the negotiations and which restricted both Governments in the concessions which they might otherwise have been prepared to make to facilitate agreement. The Commission, however, has no doubt that both Governments are keenly conscious of their duties and responsibilities as members of the United Nations, and that both desire a final and peaceful solution of the Kashmir question.

In drafting the report the Commission has therefore intentionally avoided comment on its own appreciation of the broad and complex background of the relations between the two countries, significant as the overall relations unquestionably are in the greater understanding of any one issue. It has felt it wise to restrict itself to the specific problems arising out of the implementation of the agreement entered into by India and Pakistan under the Resolutions of 13 August 1948 and 5 January 1949. The Commission must note, however, that the issues of the disposal of Azad Forces, the withdrawal of troops, and the defence and administration of the Northern Area, have made of the Truce an end in itself; the difficulty in disposing of them to the satisfaction of both Governments has been, if they are judged independently of other implications and exclusively as preliminaries to a plebiscite, out of proportion to their real importance.

The agreements in the Resolutions represent an advance toward a final settlement. The Commission has all along been re-assured by the representatives of both Governments that they are willing to meet their obligations. As a consequence of that advance the primary and immediate objective of the Security Council was fulfilled with the cessation of hostilities on 1 January 1949 and in the Karachi Agreement of July when the cease-fire line was demarcated. That it is not the intention of either Government to resort to the use of force is proven by their efforts to observe the cease-fire and their mutual co-operation in correcting and minimizing such minor incidents as

did occur during the months before a line had been demarcated on the ground.

The function of investigating the facts with which the Commission was invested by the Security Council has also been completed. The protracted negotiations of the past have provided thorough knowledge of the facts of the case. This is a positive achievement. The main issues which have prevented the Governments of India and Pakistan from progressing more rapidly toward a settlement of their dispute over Kashmir, and the conditions which they believe should regulate the putting into effect of their commitments, are now in sharp focus. The Commission trusts that United Nations action in the future should prove more effective with the foundation which this investigation provides.

The Commission employed a variety of methods in its efforts to bring about agreement of the two parties to the implementation of their undertakings. During the past months it has conducted separate negotiations with representatives of the two Governments, it has sponsored joint talks, and has submitted to them the Commission's own proposals based on frequent consultations, and lastly, suggested arbitration of their differences with respect to the Truce.

The period of investigation has been completed. Within the framework of its terms of reference, following in its endeavours the provisions contained in its Resolutions of 13 August 1948 and 5 January 1949, the Commission feels that the possibilities of mediation open to it have been exhausted. Over a prolonged period, in a changing and dynamic situation and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the Resolution of 13 August has become inadequate in the light of the factual conditions in the State. The Commission has been unable, therefore, to mediate much beyond what is today a rather outmoded pattern. The State of Jammu and Kashmir has not been demilitarized, as was envisaged in Part II of the Resolution of 13 August, and until this is achieved the conditions necessary to the holding of a plebiscite cannot begin to be stabilised. As has been seen from those parts of the report entitled Withdrawal of Forces

and the Azad Kashmir Forces, the Commission believes that the problem of demilitarization must be treated as a whole, and that the distinctions relative to demilitarization which exist in the division of the problem into Truce and Plebiscite periods as visualized in the original plan of demilitarization has proven one of the most difficult obstacles in achieving agreement on the problem. It is evident that the presence of large numbers of troops in the State is not conducive to the creation of a peaceful atmosphere. The demilitarization of the State is essential to permit the holding of a free and unfettered plebiscite.

It is imperative that a settlement of the Kashmir issue be reached and the Commission believes that it can be reached. To this end, conditions should be established at an early date which will make possible the holding of a plebiscite whereby the wishes of the people of the State regarding the future of the State may be freely ascertained.

The Commission doubts whether a five-member body is the most flexible and desirable instrument to continue in the task. In the Commission's view, a single person can now more effectively conduct the negotiations which, to be successful, must be carried out in active and constant consultation with the two parties. The designation of a single person with broad authority and undivided responsibility offers a more practical means of finding the balance and compromise necessary to advance the settlement of the dispute.

Finally, the Commission feels that, since the Government of Pakistan accepted the suggestion that the issues relating to the Truce be settled by arbitration, and that the Government of India has stated that it does not object to the principle of arbitration as provided for in the Charter, further consideration should be given to the use of this procedure.

Note : Declaration of the Belgian Delegation

With reference to the last paragraph of the Chapter of the Appendix to the present Report, entitled "Admission of Representatives of the State of Jammu and Kashmir to the Constituent Assembly of India", the Belgian Delegation feels

that it is its duty to draw the serious attention of the Security Council to this matter, as it reveals a conception of the problem, the consequences of which are liable to create important difficulties for the peaceful settlement of the Kashmir question. If, before the plebiscite envisaged in the Resolution could take place, the Government of India was to proceed to the organization of a "Constitutional" life by means of elections or by a consultation of the people in the part of Kashmir under its control. This policy would lead to the gravest consequences.

VII. RECOMMENDATIONS

That the Security Council should ask the two Governments to take all necessary precautions to secure that their agreements regarding the cease-fire be faithfully observed; also that the two Governments be enjoined to abstain from any measure liable to augment tension in the State of Jammu and Kashmir pending the final settlement of the future of the State.

That the Security Council designate as its representative a single individual whose terms of reference will be defined after the consultations envisaged in point 3, below, and who would proceed to the Sub-continent with broad authority from the Council to endeavour to bring the two Governments together on all unresolved issues; the representative designated to take into account the objectives pursued by the resolutions of the Commission, already agreed to by both Governments, for the establishment of conditions conducive to the holding of a plebiscite in the State of Jammu and Kashmir whereby the will of the people as to the future of the State may be freely and impartially ascertained.

That the Security Council should consult with representatives of the two Governments in order to arrive at terms of reference for its representative-including consultation regarding the scope of his authority to settle eventually by arbitration, those issues involved in the demilitarization of the State of Jammu and Kashmir as may remain outstanding which impede the creation of conditions for the holding of the plebiscite.

- /S/ Carlos A. Leguizamon (Argentina)
 /S/ Robert Van De Kerchove d'Hallebast
 (Belgium)
 /S/ Hernando Samper (Colombia)
 /S/ Robert B. Macatee (United States of
 America)

APPENDIX

Related Questions

- I. Nomination of Plebiscite Administrator
- II. Prisoners of War and Political Prisoners
- III. Refugee Problem
- IV. Objectionable Propaganda
- V. Admission of Representatives of the State of Jammu and Kashmir to the Constituent Assembly of India
- VI. "Local Authorities"

Related Questions

I. NOMINATION OF THE PLEBISCITE ADMINISTRATOR

Paragraph (3) (a) of the Resolution of 5 January 1949 reads as follows :

"The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence."

The Governments of India and Pakistan were consulted on names of personalities who would be acceptable as Plebiscite Administrator. Both Governments agreed that Fleet Admiral Chester W. Nimitz would be acceptable to them and on 24 March 1949, following the Commission's recommendation to the Secretary-General, the Commission was notified of his acceptance and nomination.

The Plebiscite Administrator will enter into his functions only when agreement will have been reached between the two

parties on the completion of Part I and on the details for the implementation of part II of the Resolution of 13 August 1948.

II. PRISONERS OF WAR AND POLITICAL PRISONERS

This question relates more specifically to the Resolution of 5 January which, cannot be implemented concurrently with the Resolution of 13 August, but only subsequently.

In March 1949 the Commission was informed by the Pakistan Government that political prisoners in Kashmir were reported to have been given heavy sentences and even condemned to death by the Maharaja's Government.

The Government of India however raised the objection that the Resolution of 5 January, paragraph 7 of which covers such questions, cannot be put into force until the truce has been signed and the Plebiscite Administrator appointed.

The Commission therefore judged that it would be difficult to pursue the question further, but it obtained an assurance that the prisoners considered at that time had not been sentenced to death, and that their cases were still proceeding in court.

The Commission's Truce Proposals of 15 April (Annex 17) contained a clause to the effect that all prisoners of war would be released within one month and that all emergency laws promulgated as a consequence of hostilities would be repealed within one month and all political prisoners arrested or prosecuted under these laws, whether condemned or not, would be released during the same period. In its reply dated 17 April (Annex 20) the Indian Government declared that they accepted the proposal concerning prisoners of war and that with regard to the rest of the clause in question it was not clear under which provision of the Resolution of 13 August it had been made. The Indian note further stated that the matter fell under point 7 of the Commission's Resolution of 5 January 1949. It could not be regarded by the Government of India as legitimately connected with the Truce Agreement proposed. The Pakistan Government made no observation. In their final Truce Terms of 28 April 1949 (Annex 21) the

Commission, in order to keep more strictly to the letter of the Resolution of 13 August 1948 replaced the previous clause by the following :

"It will be made publicly known throughout the State of Jammu and Kashmir that peace, law and order will be safeguarded and that all human and political rights will be guaranteed."

The Government of Pakistan replied to this proposal in its letter dated 30 May 1949 (Annex 49)

"It is understood that the Commission is fully alive to the importance of taking concrete steps, such as the release of political prisoners and the abrogation of emergency laws, to implement the declaration under Paragraph III of the Truce Terms. The Pakistan Government trust that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice. Unless the public declaration envisaged in Paragraph III F is followed immediately by concrete action, the psychological effect on the people of the State would be of a highly undesirable character."

The Commission sought to bring about those conditions in formulating its proposals.

III. REFUGEE PROBLEM

As a cosequence of the disturbances a great number of persons had to leave their homes in the State of Jammu and Kashmir. The problem of the Kashmir refugees is naturally a matter of deep concern to the Governments of India and Pakistan.

This problem is not dealt with in the Resolution of 13 August 1948 but is covered by that of 5 January 1949. Consequently the Commission need not take it up at present, although it should be borne in mind in view of the need to create a favourable atmosphere for the plebiscite and also on humanitarian grounds.

Paragraph 6 (a) of the Resolution of 5 January 1949 stipulated that all citizens of the State who had left it on

account of the disturbances would be invited and be free to return and exercise all their rights as such citizens. The same paragraph contemplates the appointment of two commissions, one composed of nominees of India and the other of nominees of Pakistan, to operate under the direction of the Plebiscite Administrator for the purpose of facilitating the return of the refugees to their homes.

After an interview on 11 March with representatives of the International Red Cross, who described their activities in the field of relief for Kashmir refugees, a letter was sent by the Commission to the two Governments asking them to study this problem.

In this letter the Commission referred to the citizens of the State of Jammu and Kashmir who had left it at the time of the disturbances and who under the Resolution of 5 January 1949, should be invited to return to their homes and be guaranteed their rights as citizens of the State.

It was suggested by the Commission that, as provided for under the Resolution of 5 January 1949, two refugee commissions should be set up in the near future, both operating under the authority of the Plebiscite Administrator.

The Commission felt and still feels that very useful preparatory work can be done by the two Governments even before the Plebiscite Administrator enters upon his functions.

On 3 May, the Personal Representative of the Secretary-General sent a further letter on behalf of the Commission asking the two Governments for information as to what steps they had taken to set up the two above-mentioned commissions.

The Pakistan Government replied on 6 May that a certain amount of preliminary work had been done but that no decision had been taken on the composition and functions of the proposed commission.

On 10 May the Government of India informed the Commission that the Government of Jammu and Kashmir was drawing up a plan for the collection of information about persons who, as a result of the hostilities, had been obliged to leave their homes, whether such persons were inside or outside the State; it added that with this end in view a number of

enquiries had been made of the commandants of refugee camps in the State and in India proper.

The Personal Representative of the Secretary-General sent a letter of reminder bearing on this subject to the two Governments on 7 September.

The Government of India replied that the refugees in India, who were dispersed in a large number of camps, were going to be concentrated in a single camp on the border of the State of Jammu and Kashmir in order to facilitate their repatriation.

As regards the refugees in India who are not in camps, the Indian Government is prepared to this a census of them but considers that this conduct be done when their repatriation is imminent since they are predominantly a floating population.

The Indian Government would welcome a plan for repatriation to the Azad territory, since almost all the refugees in question come from that territory.

It takes the view that in the meantime a repatriation commission would serve no useful purpose.

The Indian Government considers that under the auspices of the Plebiscite Administrator a joint plan of action with the Pakistan authorities should be drawn up.

The Pakistan Government's reply, dated 21 September 1949, states that a census is being carried out of refugees in Pakistan and Azad Kashmir and that the results will be communicated to the Commission.

As regards the Pakistan Refugee Commission which the Commission had proposed be set up, the Pakistan Government asks for information about the functions of this body and indicates its preference for a joint commission of representatives of the two Governments, as was suggested in Paris at a meeting held on 2 December 1948. Alternatively it suggests that both the commissions to be established should operate within the State of Jammu and Kashmir under the surveillance and direction of the Plebiscite Administrator.

IV. OBJECTIONABLE PROPAGANDA

When the Commission returned to the Sub-continent,

both Governments drew its attention to the propaganda which was being carried on the opposite side in the State of Jammu and Kashmir.

This propaganda, which maintained the suspicion and hatred resulting from the hostilities was hardly compatible with the Commission's work.

In the Resolution of 13 August, there is a clause requiring the two Governments to appeal to their respective people to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations. In the Commission's view, the cease-fire in the military sphere should have been accompanied by a "cease-propaganda".

In a letter dated 12 February (Annex 2), the Commission requested the two governments, in identical terms, to exercise their influence so as to bring about the cessation of all propaganda which goes beyond legitimate political activity.

The Commission regrets that this undesirable propaganda does not as yet seem to have been abandoned.

V. ADMISSION OF REPRESENTATIVES OF THE STATE OF JAMMU AND KASHMIR TO THE CONSTITUENT ASSEMBLY OF INDIA

The Commission received from the Pakistan Minister for Kashmir Affairs a letter dated 11 June 1949 (Annex 52) protesting against the decision taken by the Constituent Assembly of India to reserve four seats for the representatives of the Government of Jammu and Kashmir and also against certain statements made on the occasion of that decision by members of the Delhi Government.

The Commission replied in a letter dated 20 June 1949 (Annex 53) stating that it would submit the Pakistan Government's communication to the Security Council. That is what is now being done.

It cannot be denied, however, that this step was undesirable from the political point of view, since it was bound to increase tension between India and Pakistan on the Kashmir question.

In the Commission's view, it is difficult to oppose this measure of the Indian Government on purely legal grounds. The Commission did not consider there was any useful purpose to be served in approaching the Indian Government on this matter.

The Pakistan Government refers to this matter in its letter of 1 October (Annex 42). Commenting upon that letter, Sir Girja S. Bajpai in his letter dated 21 November (Annex 43) sets forth the reasons which in his Government's view justifies the participation of representatives of the Jammu and Kashmir Government in the Constituent Assembly of India as follows :

"While the constitution of India, which, *inter alia*, provides for the relations of acceding States to the Government of India was under consideration, it would have been unfair to the Government and people of the State of Jammu and Kashmir to deny them the opportunity of participating in the discussion of that constitution. Such participation was not intended to and does not, in fact, alter the Government of India's determination to abide, in the matter of accession, by the freely declared will of the people of Jammu and Kashmir. Should that will be against the State continuing to be part of India, if and when it comes to be expressed in a constitutional way under conditions of peace and impartiality, the representation of the State in the Indian Parliament would automatically cease and the provisions of the Constitution of India that govern the relations of the State of Jammu and Kashmir with the Union of India will also cease to operate."

VI. "LOCAL AUTHORITIES"

Part II, Section A. 3, of the Resolution of 13 August 1948 provides that pending a final solution, the territory of the State evacuated by the Pakistan troops would be administered by the local authorities under the surveillance of the Commission.

The Commission was not faced with the need to define its relations to the local authorities, nor was it called upon to

investigate the matter in detail since this provision was to go into effect only as a result of a Truce Agreement. The provision was intentionally phrased in the broad term "local authorities" in order to overcome the difficulties which might have arisen in August 1948 as regards the actual administration of the area and which, at that time, might have entailed a delay in bringing about the cease-fire. In this connection, the Indian Government pointed out that in the territory to be evacuated by the Pakistan troops, the Commission would have to consider not only local officials, but also the "Azad Kashmir Government".

The Government of India expressed to the Commission its concern that "de facto" recognition of this "Government" not be granted by the Commission and that, on the other hand, the guarantees of freedom of speech, etc., for which India undertakes to secure respect in the part of the State of Jammu and Kashmir under her control and which are essential for the preparation of the plebiscite, be not only paper guarantees in Azad territory, but be enforceable and enforced.

In the Government of India's view the Azad territory constitutes a vacuum which can only be filled by the "surveillance" of the Commission.

Source : UN Document No. S/1430)

Czechoslovak Delegation Report

Addendum to the third interim report of the United Nations Commission for India and Pakistan minority report of the Czechoslovak delegation.

16 December 1949

The third interim report of the Commission places on record the failure of a seven-month effort to fulfil its task of causing, by its mediation, the Governments of India and Pakistan to settle the Kashmir dispute by the peaceful means of a plebiscite. From the said failure of the Commission's mediation mission it must be concluded that the resolutions of

13 August 1948 and 5 January 1949, which are the starting points of all negotiations, are out of keeping with the actual, present-day situation in the State of Jammu and Kashmir and that no compromise acceptable to both the Governments can be reached on their basis.

In putting on record the impossibility of attaining a positive result, the majority of the Commission proposes that the task the Commission had been charged with should be entrusted in one mediator, and in paragraph 286 of its report indicates also the road to arbitration.

The report, together with a description of the various phases of the negotiations and relevant documentation, is made to show that the mediation proceedings were handled correctly and in every way objectively, and that the negotiations that were conducted on the basis of the resolutions of 13 August 1948 and 5 January 1949 were wrecked on account of the intransigent attitude of the two Governments.

The Czechoslovak delegation co-operated to the fullest extent with the Commission to achieve the solution of the Kashmir problem, and in presenting its views in separate report it wishes to throw light on those phases of the Commission's mediation efforts where the majority report fails to state clearly the reasons of the failure.

It is of course quite obvious that, as a mere holder of a mandate from the Security Council, the Commission could, on taking over its task, only take cognizance of the given situation, and no fault can be ascribed to it as far as the core of the dispute proper is concerned.

On the other hand, however, it is necessary to state that the mediation efforts of the Commission did not contribute in a constructive way to the positive solution of the whole problem.

It needs placing on record that :

- (a) The Commission has made a serious mistake in that it cancelled the joint political conference which had been convened with the assent of both the Governments for 22 August 1949, at New Delhi.
- (b) By its unauthorized proposal for the arbitration of the truce agreement it overstepped its terms of

reference.

- (c) The secret arbitration offer of the Commission was, before being presented to the Government of India and Pakistan, placed at the disposal of the Government of the United States and the United Kingdom, and President Truman and Prime Minister Attlee, in a synchronized action, made use for a public interventionary pressure.
- (d) The interim text of the secret arbitration memorandum came into the hands of the British High Commissioners in New Delhi and Karachi at the same time or even sooner than it was officially presented to the Indian Government, without even an attempt on the part of the Commission—despite urging by its Chairman at the time—to institute due investigation of both cases of a flagrant breach of the integrity of the Commission's proceedings.
- (e) The Commission did not show sufficient sagacity when presenting its basic proposal for a solution of the Kashmir problem, the proposal which was adopted as the resolution of 13 August 1948, in which the Commission deeply underrated the significance of the "Azad forces" and failed altogether to take into account the situation in the "northern area", on which two problems subsequently all the Commission's work kept on foundering.
- (f) The Commission did not succeed in winning public confidence on either side, and on the contrary left the sub-continent charged by the Press, both before the conclusion of its labours and after its departure, of pusillanimity and even of double-dealing.

The Commission stated itself in its first interim report that it had come to the sub-continent un-certain how it would be received and whether it would acquire the necessary co-operation of both Governments. This lack of confidence in its mission, however, can be seen throughout its labours. Instead of taking a firm stand on definite issues, where it was necessary, the Commission preferred to resort to clarifications and promises, thus compromising its own position and achiev-

ing on the whole nothing positive.

The failure of the Commission's mission is therefore not solely ascribable to the intransigence of the Governments of India and Pakistan, both of which understandably tried in the course of repeated negotiations to gain the most advantageous position; the reasons must be also looked for in the activities of the Commission *per se*, with a proper light thrown on the substance of the whole problem of Kashmir.

The report of the Commission sets forth the three most important obstacles which balked its effects to reach agreement:

- (a) Disposal of *Azad* Kashmir forces,
- (b) Withdrawal of regular forces from the State, and
- (c) The northern area.

The reasons for the insolubility of these problems must be sought just in the shortcomings of the resolution of 13 August 1948. In its part II, the full implementation of which is the basic condition for any further measures that would ensure a fair and unhampered carrying out of a plebiscite, there is not mention whatever of "*Azad* forces", because the Commission did not assume that the cease-fire line would be of such long duration. The "*Azad* forces" meanwhile grew by the spring of 1949 into 32 determined and fully armed battalions, which according to an evaluation by the military adviser of the Commission represent a "formidable force". Owing to this fact, which is at variance with part I, section B, of the said resolution forbidding both parties any increasing of their military potential, the situation has materially undergone an absolute change and so a new problem was created as to what within the meaning of the resolution represents the "bulk" of the Indian army in Kashmir. From this have arisen logically further difficulties concerning the disarming of the "*Azad* forces" and the synchronization of the withdrawal of troops.

Similarly, due to the lack of sagacity on the part of the Commission, the situation was rendered more difficult also for the solution of the other main problem, the "northern area".

When dealing with its proposal to both Governments, adopted as the resolution of 13 August 1948 first by the Government of India — and subsequently sanctioned as the

resolution of 5 January 1949 also by the Pakistan Government — the Commission entirely failed to concern itself with the situation in strategically very important territory to the north of Kashmir.

Having ascertained this shortcoming, the Government of India submitted a reservation in respect of the resolution dated 13 August 1948, concerning its right to administer the northern territory, of which, on the basis of the military situation then existing, it maintained that it could not be put on a par with the "*Azad* territory" to the west of Kashmir. Instead of rectifying the aforesaid shortcoming by a formal rider to the resolution — which in fact the Government of Pakistan sanctioned only five months later — the Commission replied by a letter dated 25 August 1948 [S/1100] in which it acknowledged to the Prime Minister of the Indian Government the receipt of his reservation and stated that they question might be examined when the resolution of 13 August 1948 was implemented.

This obligation of the Commission, which — due to the Commission's own faulty judgement — therefore did not represent any formal part of the resolution of 13 August 1948, the Commission now explains as only a declaration of an intention to study later on the situation in the north, outside of the scope of the part II of the said resolution.

From the legal point of view, the Government of Pakistan does not, therefore, consider the Commission's letter of 25 August 1948 as legally binding on it, because it was only a question of the exchange of correspondence between the Commission and the Indian Government. Moreover, the situation in the "northern area" had meanwhile undergone a material change, in that the Pakistan Army, which was not bound by the resolution of 13 August 1948, conquered many strategically important places during the interval before, by the resolution of 5 January 1949, it is also sanctioned by the Government of Pakistan.

The Governments of India and Pakistan evaluate the legal weight of the Commission's letter of 25 August 1948, each from its own second point quite contrarily, of course. In the regard it has to be pointed out that, as early as of 3

September 1948, the Government of Pakistan notified to the Commission its definition of evacuated territory "as referring to the territories in the State of Jammu and Kashmir, which were at that time under the effective control of the Pakistan High Command". And here — due to the Commission's lack of understanding of the situation — is the core of all subsequent legal contentions effecting the northern area, which the Commission has not been able to abridge.

While the Government of India made on 20 August 1948 a clear reservation regarding the position in the northern area, two weeks after that the Government of Pakistan, in its aforesaid notification, made a claim of great consequences mortgaging practically the political future of vast territories in the State of Jammu and Kashmir where the Pakistan army or forces under its High Command could have gained the upper hand.

The Commission claims that time it had no practical means at its disposal to verify the factual situation in the different parts of the State of Jammu and Kashmir. This is, however, exactly the reasons why the Commission should have been firm, at least on the legal ground, and should not have resorted to empty promises. The Commission, facing later on minorially changed situation in the northern area, is bound to admit that, while the reservation of the Government of India of 20 August 1948 may be legally valid, it is physically impossible to implement it.

The latter of the Pakistan Minister of Kashmir Affairs of 26 April 1949 (Annex 24), contending that the definition of 3 September 1948 brought the whole of the northern area inside the "evacuated territory", is a logical sequel to Pakistan's position of 3 September 1948, and at the same time a reflection of the Commission's short-sightedness.

Whatever are the reasons for not rectifying the oversight in the resolution of 13 August 1948 by a proper formal, legal instrument, it is to a great extent the Commission's own fault that its mediatory efforts to solve this second main problem have not proved successful.

In this connexion another matter of real importance has to be pointed out: the legal question of retroactivity of the

resolution of 13 August 1948. The Belgian and Czechoslovak delegations requested the Legal Adviser of the Commission to submit a working paper showing the Commission's position in this regard. The said working paper — through no fault of the Legal Adviser, whose efforts should be rather appreciated — amounts to a masterpiece of evasiveness. The Commission itself cannot clarify its own legal inartument.

After the rejection of its proposal of 28 April 1949 to bring about a truce agreement, to which both Governments lodged material reservations, the Commission's majority considered on the whole any further efforts at mediation as futile and, from the beginning of June 1949, the United States delegation strove to bring the Commission round to the idea of solving the question of the truce by arbitration.

In its declaration which took the form of a resolution (S/AC.12/233) the Czechoslovak delegation on the other hand argued that "it is the conviction of the Czechoslovak delegation that there exists on the part of the Commission a legal and at the same time even a moral duty to send invitations to both Governments to attend a joint political meeting before taking into consideration any other means of solution".

The Commission was prepared to accept the Czechoslovak proposal but only subject to a successful termination meanwhile of the planned negotiations for the fixing of a definitive line of demarcation, on the realization of which the Czechoslovak delegation instead with all the weight at its command.

This trying-up with a favourable result of the military negotiations in Karachi the Czechoslovak delegation declined with the basic declaration that "it is a serious political matter which must be considered on its own political grounds without any junction with military talks in Karachi, whatsoever might be their result." The majority of the Commission nevertheless adhered to its stand-point that the ultimate decision on the convening of a joint political meeting of both Governments would be made according to the result of the military consultations.

The pessimistic attitude to the Commission toward any negotiations for an agreements on the fixing of a definitive line

of demarcation was shown to be entirely unjustified, and after their complete success the Commission approved in its morning session on 29 July 1949 — with the single exception of the United States delegation, which abstained from voting — the Czechoslovak proposal for the calling of a joint political conference of both Governments.

However, the measure of mistrust with which the Commission took this last of its important steps in mediation can be gauged from the fact that on the same day, 29 July, in its afternoon session, it also passed — the Czechoslovak delegation abstaining — the proposal of the United States delegation of arbitration proceedings for a truce agreement, for which the Governments of India and Pakistan were recommended to accept as arbitrator Admiral of the Fleet Chester W. Nimitz.

The reasons given for the hasty passing of the arbitration proposal of the United States delegation was the much-stressed anxiety that the joint political conference might end in failure and that, in order to save time, it was necessary to have a new proposal in readiness.

The Governments of India and Pakistan actually did accept the proposal of a joint political conference which was to make a start on 22 August 1949 in New Delhi, with members of the cabinets of both Governments taking part. However, four days prior to its inauguration, the Commission decided in its session on 18 August 1949, to send telegrams to both Governments (annex 33), saying that the Commission itself was cancelling the joint political conference.

The reason for which this decision was made was the finding of unbridgeable conflicts in the answers of both Governments as to their ideas on the programme of the conference. A detailed explanation in this respect is being set forth in the majority report. What the report omits to mention, however, is that these conflicting points of view were well-known previously not only to the Commission itself but also to the two Governments. The Czechoslovak delegation agreed with the view that a possible failure of the joint political meeting might give a worse turn to the situation, but it maintained that the responsibility rested with the Governments of India and Pakistan, which had expressed their willingness in principle to enter

into direct negotiations with each other under the chairmanship of the Commission. A prepared conference that had already been widely announced by the international Press could be cancelled only by the participating Governments. They would in that way themselves offer proof that mediation was excluded, when they could not even be persuaded to make any start whatever with the discussions of question in dispute.

These fully reasoned arguments fell rather flat however, and in spite of the warnings uttered by the Czechoslovak delegation that an infringement of the terms of reference was involved, the Commission forthwith set about preparing the arbitration action it had passed in advance on 29 July 1949.

How out of order it was, however, to cancel on the Commission's own responsibility an already-convened joint political conference could be seen at the end of August 1949, on the occasion of the handing over of the arbitration offer to the two Governments. The Pakistani Minister of Foreign Affairs, Sir Mohammad Zafrulla Khan, informed the Chairman of the Commission on 29 August 1949 in Karachi — in the presence of the Principal Secretary to the Commission — that the Pakistan Government was greatly surprised that the Commission had cancelled the conference. Something to the like effect was also said on 30 August 1949 in New Delhi to the Chairman of the Commission and its Principal Secretary by a representative of the Indian Ministry of Foreign Affairs and, two days later, by the Prime Minister of the Indian Government, Pandit Nehru, who manifested great astonishment and expressed disappointment at the decision of the Commission. The reason for their standpoints was the conviction they voiced that parties to a dispute need not have identical view — for that is why disputes are being carried on — but they must sit down round a table and must at least start discussions if any solution is to materialize.

The course of the discussions on the offer of the arbitration of the truce agreement — for which the Commission was not even authorized on the basis of its terms of reference — made it clear indeed that the Commission was not free from outside influence, although it was to act only according to the mandate of the Security Council in the interest of the United

Nations Organization as a whole. The interventions by President Truman and Prime Minister Attlee were only made possible on the basis of precise and timely information emanating from the Commission itself. This reality needs examining, just as it is necessary to subject to investigation the circumstances that and how it should be possible for a secret memorandum of the Commission on the subject of arbitration to get into the hands of British High Commissioners in New Delhi and Karachi at the same time or earlier than it could be officially presented to the Government of India.

In this connexion it should also be observed that since May 1949 there appeared in the press of the United States frequent notices of the shortly-to-be-expected arrival of Admiral Chester W. Nimitz on the sub-continent. At the beginning of June the American Press brought the news — said to be emanating from Lake Success — that the Commission would take the road of arbitration proceedings. This news was published a day ahead of the time when the United States delegate placed before the Commission his first arbitration proposal. The reports of the American Press were of course explained as pure speculation on the part of journalists, but by a rather strange coincidence they did find precise expression for proposals which were just being handled by the Commission in its non-public sessions. Coupled with information conveyed time and again by Admiral Nimitz to the Press, the Commission considered it as an interference with its work, and its secretariat repeatedly by means of cables drew the attention of Lake Success to the necessity of remedying matters.

As far as Admiral of the Fleet Chester W. Nimitz is concerned, there is no doubt that he acted in good faith. In his various utterances there was, however, a lack of reticence in connexion with the cool and reserved wording of the letter of 18 March 1949, by which the Indian Government acquainted the Commission with its consent to the Admiral's designation as Plebiscite Administrator. The Commission, however, did not — as was highly advisable — convey to Admiral Nimitz the verbatim text of the said notification and bears, therefore, itself the responsibility for the lack of moderation on the part

of the designated Plebiscite Administrator.

The climax to the undesirable publicity came with the article datelined Lake Success, 23 August 1949, transmitted by PTI under the headline: "Kashmir deadlock may be referred to an arbitrator". The Commission took up this matter in its meeting on 24 August 1949 and, in expressing its concern over this type of publicity, considered it unanimously an interference with its work and prestige. In the course of an exchange of views it was decided to address a telegram to the President of the Security Council asking that the Secretary-General should be requested to because in the Press a statement stressing that it lay with the Commission itself to decide what action of should take, and thus counter the impression. In the Commission derived initiative from the Press or any other sources (S/AC.12/SR.223).

A question all on its own is the case of a member of the United Nations Secretariat, Mr. Cordier (S/AC.12/257), who, on 26 August 1949, withheld the aforesaid cabled protest of the Chairman of the Commission, at the time a Czechoslovak delegate, to the Chairman of the Security Council, at that time a delegate of the Soviet Union, against outside interference with the work of the Commission. The cablegram was unanimously approved and voted upon by all members of the Commission, which only got to know through Mr. Cordier's cabled reply of 4 September 1949 that he had not delivered the complaint which was addressed to the Chairman of the Security Council personally. In this connexion it should be particularly stressed that this interference of the Secretariat with the competence of the Commission and the Security Council at the same time exactly coincides with the time of the Anglo-American intervention, which was carried out on 31 August 1949. The explanations given to the Commission by cables of Sir Alexander Cadogan and the Secretary-General of the United Nations, Mr. Trygve Lie, rejecting the Commission's telegraphic complaint of 6 September 1949, are not only inadequate, but both cables are actually drafted so as to constitute a reapproach to the Commission; they were dealt with in the statement of the Czechoslovak delegation of 16 September 1949 (S/AC.12/267).

The Commission conducted a series of strenuous negotiations and did a considerable amount of paper work without a positive result. Besides the shortcomings bringing from its own faulty judgement of the two fundamental problems, the "Azad forces" and the "northern area", the Commission was handicapped by the fact that it judged its task for the greater part only from the technical angle, without a capacity for seeing and drawing its conclusions from the whole political background of the Kashmir problem.

On the other hand the offer of arbitration that exceeds the scope of the Commission's terms of reference was in no way an accidental one. The United States delegation strove — as already mentioned — for arbitration from as early date as June of the current year, with the quite frankly avowed intention to bring Admiral Nimitz at the earliest possible moment to the sub-continent in the capacity of arbiter. The Commission on its part was favourably inclined toward the arbitration proposal because it did not itself greatly believe in its mediating mission, mainly because it was clear on the whole how difficult would be the implementation of the resolution of 13 August 1948.

Even if both Governments had signed a truce agreement, it would have remained doubtful nevertheless whether the conditions of the carrying out of a free and unhampered plebiscite in the spirit of the said resolution would really be capable of realization. In any arrangement of a truce by means of arbitration there was a great probability that the truce arbiter could practically become the arbiter of the dispute as a whole.

The Kashmir dispute, however, as an affair of the whole forum of the United Nations and in its solution all preliminary conditions and guaranties of its just settlement must be preserved. If every one of the Member States of the United Nations Organization would take a similar course of action to that of the United States of America and the United Kingdom in their interventions under absolute disregard of the competence of the appropriate organs of the United Nations Organization, each and every mediation action would be made impossible and the United Nations Organization would be seriously undermined.

If peaceful solution of the dispute is to be attained it has to be assured that the Commission does not become an instrument of policy of certain Great Powers.

The mediation efforts aimed at the solution of the Kashmir problem, and first of all the basic conditions for any further successful work of the mediation organ itself, must be put on a new basis, enjoying the unanimous support of the Security Council.

It cannot be, indeed, deduced from the failure of the Commission's mission that any further mediation in the Kashmir dispute is precluded. All it needs is a proper evaluation of the actual facts.

The resolution of 13 August 1948, due to its many serious shortcomings, cannot — in its present form — remain the basic legal instrument of new mediation efforts. All these shortcomings should be thoroughly analysed and exposed before a decision is reached upon new terms of reference. The interdependence of provisions of the said resolution with those of the resolution of 5 January 1949 — especially with regard to the demilitarization of the State of Jammu and Kashmir — should be replaced by broader provisions of new terms of reference, since under the present situation not only the attainment of the truce agreement but its implementation likewise is impossible.

The conclusion presented in the majority report expressing doubts about the flexibility of the Commission composed of five members is un-warranted. It was not a lack of flexibility but rather too much flexibility — as demonstrated by so many and so important clarifications, elucidations, etc. — which considerably contributed to undermining the Commission's position, as a result of a vain attempt to please both parties to the dispute at the same time.

After the experience of the past it is quite clear that the new mediation organ must be really independent and untrammelled by any outside interference. A guarantee of full independence would be enjoyed by a Commission consisting of representatives of all the members of the Security Council.

The new Commission, taking advantage of being in possession of all the necessary facts, duly evaluated by the

Security Council itself, would be in a position to carry out its mediation task without delay, at Lake Success, in an atmosphere much more suitable for reaching the Truce Agreement than when on the sub-continent.

Prior to this, however, it should be taken into consideration that the Governments of both India and Pakistan — as already stated — voiced strong and concurrent protests because the joint political meeting did not materialize. It should be, therefore, recommended to the representatives of both Governments to avail themselves of the opportunity of the Commission being present here to much now, in a joint meeting at Lake Success an understanding at least on the most outstanding differences emanating from the resolutions of 13 August 1948 and 5 January 1949 respectively.

Such a procedure would constitute the best premise for the new mediation effort and would contribute in a simple and constructive way to its success, if not eventually settling the problem of the truce agreement.

(Signed) Oldrich Chyle
Representative of Czechoslovakia

Lake Success, 16 December 1949

Report of Mr. McNaughton

**Letter dated 3 February 1950 addressed to the
President of the Security Council from the
representative of Canada, communicating
his report on the India-Pakistan
question**

*[Original text : English]
[6 February 1950]*

You will recall that the Security Council on 17 December 1949 [457th meeting] requested me, as President, to "meet informally with the two parties and to examine with them the possibility of finding a mutually satisfactory basis for dealing with the Kashmir problem". I reported to the Council on 29 December 1949 [448th meeting] on the discharge, up to that date, of my responsibilities pursuant to this decision. I also agreed, at the request of the representatives of India and Pakistan, to continue to hold myself at their service as long as my mandate from the Security Council ran; and I undertook to report to the Council whenever the Council so desired, in order to bring it up to date regarding the discharge of these responsibilities.

As I have understood the mandate given to me in this matter by the Council, it terminated at midnight on 31 December 1949, when my term of office as President expired. Consequently, I have not undertaken any substantive action in this matter since that date. However, I agreed, at the request

of the parties, to act as a transmitting agent for them in interchanging their views, to the extent that they wished to use my services for this purpose.

The purpose of this letter is to report to you on my activities in this regard since the Security Council meeting of 29 December 1949, and to give you the text of the communications which have passed between myself and the representatives of India and of Pakistan respectively. I should add that, in making this correspondence available to the Security Council, I am acting with the written agreement of the representatives of India and of Pakistan.

You will recall that, as reported to the Council on 29 December 1949, I undertook at the request of the representatives of India and Pakistan to formulate a proposal for demilitarization, designed to make possible the realization of conditions for holding a plebiscite in the State of Jammu and Kashmir, as provided in the resolutions of the United Nations Commission which both parties have accepted. This proposal was handed to the representatives of the two parties on the night of 22 December 1949. Replies to this proposal were received, respectively, on 28 December 1949, from the Government of Pakistan, and on 29 December from the Government of India.

The reply of the Government of Pakistan to my proposals follows.

**Letter Dated 28 December 1949 Addressed to
the President of the Security Council from
the Representative of Pakistan**

I have the honour to refer to the proposals which you handed over to me on 22 December 1949, concerning settlement of the question of Jammu and Kashmir and to say that the Government of Pakistan has authorized me to communicate their acceptance of these proposals subject to the amendments set out in annex I. As you will be pleased to observe, these amendments do not seek to alter your proposals and were suggested to bring out more clearly the objective you have in view. They are confined to such of the amendments originally

proposed by us as you were agreed might well be accepted as clarifications of intent. A memorandum explaining the amendments is enclosed (annex II).

(Signed) Mohammad Zafrulla Khan
Minister for Foreign Affairs and Commonwealth
Relations, Government of Pakistan

ANNEX I

Amendments Proposed by Pakistan to the Proposals of 22 December 1949 of the President of the Security Council

(1) Sub-paragraph 1 (a)

For the words "the future of Jammu and Kashmir" substitute the following : "the question of the accession of the State of Jammu and Kashmir to India or Pakistan".

(2) Sub-paragraph 2 (a)

At the end of sub-paragraph 2 (a) add the following : "the final disposal of all forces remaining in the State will be determined by the Plebiscite Administrator under the resolution of 5 January 1949 of the United Nations Commission for India and Pakistan (UNCIP)".

(3) Sub-paragraph 3 (a)

Omit the words "to the Government of India" in the first sentence of sub-paragraph 3 (a).

(4) Paragraph 4

Add the following as sub-clause 4 (c) : "of obtaining an assurance from the appropriate authorities on either side of the cease-fire line and of making it publicly known throughout the State of Jammu and Kashmir that peace, law and order will be safeguarded and that all human and political rights will be guaranteed."

(5) Paragraph 5

Put a full stop after the words "India and Pakistan", and substitute the immediately following words "and which" by

the words "These resolutions".

(6) *Paragraph 6*

Omit the words "and enduring".

ANNEX II

Explanations of Amendments Proposed by Pakistan in Annex I

(1) *Sub-paragraph I (a)*

The phrase employed in the original is vague. The amendment seeks to substitute the accepted language of the preamble to the Security Council's resolution of 21 April, 1948 and of paragraph 1 of UNCIP's resolution of 5 January, 1949 [S/1196].

(2) *Paragraph 2*

As is apparent from its heading, paragraph 2 of the proposals deals with "demilitarization preparatory to the plebiscite". The proposals do not affect the arrangements already arrived at with regard to the plebiscite stage. The concluding sentence of paragraph 5 of the proposals provides that "the functions and powers of the Plebiscite Administrator remain as set forth in UNCIP's resolution of 5 January, 1949". These functions include the final disposal of all forces remaining in the State (see paragraph 4). The amendment makes it clear that the final disposal of all forces remaining in the State after the programme of demilitarization envisaged in paragraph 2 of the proposals has been carried out, will be determined by the Plebiscite Administrator under UNCIP's resolution of 5 January, 1949.

(3) *Paragraph 3*

The use of the words "to the Government of India" in sub-paragraph 3 (a) might lead to difficulties and is open to serious objection. The assurance sought could be expressed in general terms or to the United Nations.

(4) Paragraph 4

The amendment seeks to incorporate paragraph 3, section B, part II of UNCIP's resolution of 13 August, 1948, in the proposals.

(5) Paragraph 5

This is only a drafting change.

(6) Paragraph 6

The use of the words "and enduring" might give rise to misunderstanding as to the scope of the proposal.

The reply of the Government of India, dated 29 December 1949, to my proposal, follows.

**Letter Dated 29 December 1949 Addressed to
the President of the Security Council
from the Representative of India**

As suggested by you, we asked the Government of India whether they would wish us to suggest amendments to your proposals in order to meet the objections which I submitted on their behalf. My Government has authorized me to propose such amendments and I am enclosing these for consideration.

(Signed) *B.N. Rau*

ANNEX

**Amendments Proposed by India to the Proposals
of 22 December 1949 of the President of the
Security Council**

Proposed additions are italicized and proposed omission are bracketed

(1) For sub-paragraph 2 (a) substitute :

"(a) The programme of demilitarization should include the withdrawal from the State of Jammu and Kashmir of the regular and irregular forces of Pakistan; the disbanding and

disarming of the Azad Kashmir Forces; and the withdrawal of the regular forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the cease-fire line."

(Also the reduction, by disbanding and disarming, of local forces including on the one side the Armed Forces and Militia of the State of Kashmir, and on the other, the Azad Forces.)

(2) For sub-paragraph 2 (b) substitute:

(b) After the withdrawal of Pakistan forces referred to in sub-paragraph (a)

(i) The responsibility for the defence of the "Northern Areas" shall vest in the Government of India; and

(ii) The responsibility for the administration of the "Northern Areas" shall vest in the Government of Jammu and Kashmir which will guarantee that there shall be no victimization of the inhabitants of the area."

The "Northern Area" should also be included in the above programme of demilitarization and its administration should, subject to United Nations supervision, be continued by the existing local authorities.)

(3) In sub-paragraph 3 (a) for "tribal incursions" substitute "incursions by *tribesmen or Pakistan nationals*" and for "tribesmen" substitute "*tribesmen or Pakistan nationals*".

(4) In paragraph 4 in line 8 for "this United Nations Representative" substitute "*the United Nations Representative*" and in line 11 for "This United Nations Representative" substitute "*In addition to the functions assigned to him in paragraphs 3 and 6, the United Nations Representative*".

(5) In sub-paragraph 4 (b) for "respectively" substitute "*as the case may be*" and at the end of the sub-paragraph add "*and of the guarantee referred to in sub-paragraph 2 (b)*".

(6) In paragraph 6 for the words "to make any suggestions to the Governments of India and of Pakistan" substitute "to make to the Governments of India and of Pakistan *and to the Security Council* any suggestions"; and at the end of the paragraph of "their disposal" substitute "*the disposal of the two Governments for the purpose*".

(7) These are the main amendments; there may have to be minor or consequential amendments, which we think it unnecessary to detail at this stage.

On the evening of 29 December 1949, following the meeting of the Security Council on that date, I interchanged the replies of the two parties. The reply of the Government of Pakistan was handed to the representative of India at 7.35 p.m., 29 December. The reply of the Government of India to my proposal was handed to the representative of Pakistan at 7.50 p.m., 29 December 1949. Just before receiving the reply of the Government of India, the representative of Pakistan left in my office a letter to me regarding his views on the procedure to be employed in interchanging the replies of the two parties. The text of this letter to me, dated 7.30 p.m., 29 December 1949, from the representative of Pakistan reads as follows :

**Letter Dated 29 December 1949 Addressed to the
President of the Security Council from the
Representative of Pakistan**

In your statement made to the Security Council this afternoon you stated, with regard to the further procedure that you had intended to follow, "I had then intended to see their representatives separately with a view to endeavouring to narrow the differences, in so far as might be possible, in discussions with them."

You will recall that when your proposals were conveyed to us it was explained to us that though the parties were at liberty to suggest any amendments, you would put forward to the other party only such amendments as were substantially in accord with your proposals and which you could commend to the Security Council.

I presume that the further procedure indicated by you in your statement made to the Security Council this afternoon is subject to the same condition as you attached to the consideration of any proposed amendments at the time of communicating your proposals. This is all the more necessary as the approach of the Pakistan Government to your proposals has been governed by that condition and any departure

from it would upset the basis upon which the consideration of your proposals has proceeded and on which the reply of the Government of Pakistan communicated to you by me on 28 December is founded.

(Signed) Mohammad Zafrulla Khan
Minister for Foreign Affairs and Commonwealth
Relations, Government of Pakistan

On 30 December 1949, I replied to the representative of Pakistan on this question of procedure. The text of my reply follows.

**Letter Dated 30 December 1949 Addressed to the
Representative of Pakistan from the President
of the Security Council**

I have received your letter dated 7.30 p.m., 29 December 1949, stating that you had understood that I had placed some limit on the handling of amendments suggested by either party. Since this does not exactly coincide with my interpretation, I think I should restate the position, as I have understood and intended it, regarding the status of my proposal and of any amendments there to.

You will recall that my formal position in this matter is based on the Security Council's adoption [457th meeting] of the proposal of the representative of Norway, that "the President should meet informally with the two parties and examine with them the possibility of finding a mutually satisfactory basis for dealing with the Kashmir problem". In other words, the status of my proposal is not that of any authoritative decision by the United Nations. As I said in my statement to the Security Council yesterday, I formulated my proposal at the request of the parties, and have throughout maintained the position that what I hope to see come to pass is agreed settlement. I hope that my proposal will be a contribution to this end.

My intention and understanding throughout has been that unless my proposal is accepted by both parties, it has the

informal status which it derives from the Security Council resolution to which I have referred. I have naturally hoped that my proposal would prove acceptable to both parties as a basis for further negotiation, and I have, I hope, made it clear that it could be amended either by agreement between the parties, or in drafting matters by myself for purposes of clarification of the understood intention. I also undertook to assist the parties, by discussing with them and transmitting to the other any amendments of whatsoever nature which the Governments of India and Pakistan might wish to propose. Naturally in making myself available for this purpose, I would, to the extent that I feel it might contribute towards reaching agreement between the parties, be prepared to discuss any amendments with the party which intended to put them forward, and, if that party wished me to transmit them to the other, then at an appropriate time after their receipt I would discuss them with the other party also.

In other words, I have throughout intended to retain freedom to form and express my own views on any amendments, to commend them or otherwise as I may feel right, but at no time have I contemplated imposing these views on anyone, be it the parties or my colleagues in the Security Council. It has certainly never been my intention to refuse to put forward to the other party any amendments which either government might wish me thus to transmit. Were I to refuse to transmit any amendments, I would cease to be acting as a channel between the parties, and in fact I might have been held to have assumed a function never contemplated either by the Security Council or myself, in which I might have come to act as a block to communications between the parties.

I hope you will agree that the position on amendments which I have indicated is the one most calculated to assist the parties in reaching an agreement.

When you handed over your letter yesterday evening, I understand that you told Mr. Carter that your Prime Minister has further proposals regarding paragraph 6 of the proposal which I had put forward. I will be very glad to receive these proposals, and if you wish me to do so, to transmit them immediately to the representatives of India. If you wish to

have a preliminary discussion of your proposal with me before its transmission to the representatives of India, I am, of course, very happy to be at your disposal.

(Signed) A. G. L. McNaughton
President of the Security Council

Subsequently on 31 December 1949, I received a further additional reply from the Government of Pakistan, regarding paragraph 6 of my proposal. The text of this letter from the representative of Pakistan follows.

**Letter Dated 31 December 1949 Addressed to the
 President of the Security Council from the
 Representative of Pakistan**

The Prime Minister has enquired whether he would be right in presuming that the intent of paragraph 6 of your proposals of 22 December is that the "solution of the Kashmir question" mentioned in that paragraph would be in accordance with the UNCIP resolutions of 13 August 1948 and 5 January 1949, which under paragraph 5 of the proposals are to be affirmed except in so far as their provisions are modified by the proposals. To obviate any doubt on the point, I propose that the following clarifying words be added to paragraph 6 after the words "solution of the Kashmir question", namely: "in accord with the UNCIP resolutions of 13 August 1948 and 5 January 1949".

(Signed) Mohammad Zafrulla Khan
*Minister for Foreign Affairs and Commonwealth
 Relations, Government of Pakistan*

On that same date this additional reply from the Government of Pakistan was transmitted by me to the representative of India.

On 2 January 1950, the representative of India called in my office to make oral comments, on behalf of his Government, concerning the reply received to my proposal from the

Government of Pakistan. In my absence the representative of India was received by Mr. Arnold Smith. On the basis of these comments by the representative of India, and at his request, Mr. Smith undertook to write a letter to the representative of Pakistan transmitting the comments of the Government of India on Pakistan's reply. The text of this communication to the representative of Pakistan was, of course, cleared beforehand with the representative of India, in order to ensure that it precisely reflected the position of the Indian Government on Pakistan's reply. The text of this letter from Mr. Smith to the representative of Pakistan follows.

**Letter Dated 4 January 1950 Addressed to the
Representative of Pakistan from the Principal
Adviser to the Permanent Representative of
Canada to the United Nations**

General McNaughton has been requested by the representative of India to forward to you comments received from the Indian Government on the amendments to his proposals of 22 December 1949, which you gave to him on behalf of the Government of Pakistan under cover of your letter of 28 December, 1949.

These comments are as follows :

(1) *Sub-paragraph 1 (a)*

No comment was made. India reserved its position.

(2) *Sub-paragraph 2 (a)*

According to India's understanding, the basis of General McNaughton's proposals is demilitarization, with the agreement of the two Governments, in one comprehensive instalment. The amendment proposed by Pakistan seems to envisage demilitarization in two instalments. The Government of India sees no necessity for this and, therefore, is not disposed to accept the amendment proposed by Pakistan.

(3) Paragraph 3

No comment was made. India reserved its position.

(4) Paragraph 4

This amendment was not accepted by India on the grounds that it would, in effect, give the *Azad* authorities (on the one side of the cease-fire line) the same status as the lawful government of the State of Jammu and Kashmir (on the other side of the cease-fire line.)

(5) Paragraph 5

India has no objection to this amendment.

(6) Paragraph 6

No comment was made. India reserved its position.

(7) Paragraph 6 (Amendment forwarded by Pakistan in the letter of 31 December 1949).

The purpose of paragraph 6 of the proposals presented by General McNaughton would seem to be to broaden the terms of reference of the United Nations Representative so as to enable him to make whatever suggestions he considers to be likely to contribute to the expeditious and enduring solution of the Kashmir question. The amendment proposed by the Government of Pakistan would have the effect of limiting the Representative's functions to helping in the implementation of such agreements as may be reached between the two Governments on the programme of demilitarization. In other words, this would make paragraph 6 of the proposal superfluous. For this reason the Government of India finds itself unable to accept the amendment proposed by the Government of Pakistan.

(Signed) Arnold C. Smith

*Principal Adviser to the Permanent Representative
of Canada to the United Nations*

Subsequently, on 13 January 1950, I received from the representative of Pakistan the comments of his Government on the reply to my proposal received from the Government of India. The text of this message from the representative of Pakistan follows.

**Letter Dated 13 January 1950 Addressed to the
Permanent Representative of Canada to the
United Nations from the Representative
of Pakistan**

Will you kindly refer to Sir B. N. Rau's letter dated 29 December, 1949, enclosing a copy of the Government of India's amendments to your proposals of 22 December.

Our views were explained to you at our meeting on 30 December 1949, but as for the purposes of your report to the Security Council you may wish to have them in writing, I set them out below in brief.

It appears from Sir B. N. Rau's letter that the Government of India did not accept your proposals, but at your suggestion formulated its objections in the form of amendments. This is confirmed by a perusal of the so-called amendments which amount to a clear rejection of your proposals and seek to substitute in their place a scheme wholly incompatible with them. In these circumstances the Pakistan delegation does not feel that any useful purpose would be served by its attempting an analysis of the Indian proposals and entering upon a refutation thereof.

*(Signed) Mohammad Zafrulla Khan
Minister for Foreign Affairs and Commonwealth
Relations, Government of Pakistan*

On 16 January 1950, the operative part of this communication was transmitted by me to the representative of India.

This is a comprehensive record of my activities since the Council meeting of 29 December, in interchanging the replies and observations received from the two parties regarding my proposal of 22 December 1949. I do not believe it is either necessary or desirable for me to comment on the replies of the two parties. Moreover you will of course understand that in exchanging these replies and observations I acted solely as a channel of communication; and that my transmittal of these communications did not imply either agreement or disagreement with the particular interpretations put forward by

one party or the other regarding any part of the proposal of 22 December.

In conclusion, I should say that in acting as I did in December as President of the Security Council, and in formulating at the request of the representatives of India and of Pakistan my proposal of 22 December, I believe I have acted in strict accord with the mandate given to me by the Council's decision of 17 December 1949, and that this matter was carried forward as far as was possible under the circumstances.

Since the expiry of my mandate on 31 December 1949, I have acted, at the request of the parties and in accordance with the wish of several members of the Council expressed at the meeting of 29 December 1949, as a channel of communication between the parties; and I feel that this responsibility is also now outdated.

In the absence of clear evidence that further mediation by me would seem likely to assist the Governments of India and Pakistan toward an agreed course of action, I do not believe that further activity on my part would serve any useful purpose.

It is my view that the further procedure to settle this dispute should be determined by the Security Council; and in this connexion, I think that the two parties should be given an opportunity to explain their policies and state their views to the Council. When this has been done, the Council will be in a position to determine the action which is appropriate. As regards my own view, you have the proposal which I submitted to the parties on 22 December 1949, and I have nothing to add to it. In regard to my proposal, you will recall that I had a full opportunity of explaining to the Council, on 29 December 1949, the principles on which it is based. Briefly, two main elements were in my mind in drafting the proposal. In the first place I felt that it would be most unwise to discard whatever measure of agreement had thus far been achieved between the two parties, unless some alternative agreement had first been reached between them. In the second place I sought to concentrate on the development of appropriate arrangements for the future rather than to attempt an analysis, or to pronounce judgment, on the highly controversial and disputed issues of

the past few years.

I would like to add that my conversations with the representatives of India and of Pakistan, and my association with this problem during the two years when I sat on the Security Council, have impressed me deeply with the paramount necessity of resolving this controversy. So long as the dispute over Kashmir continues, it is a serious drain on the military, economic and, above all, on the spiritual strength of these two great countries. It is obvious that the real long-term interest both of India and of Pakistan lies in mutual friendship and in co-operation, and that the prosperity and security of each will be increased directly with the prosperity and security of the other. Generosity and sympathetic understanding are always the two keys to good-neighbourliness between nations, and thus to the great future which these two neighbours will surely have.

Finally, I should like, through the President, to express my appreciation for the courtesy which the representatives of India and of Pakistan have shown me; and to express to the President, to the members of the Council, and particularly to the representatives of India and of Pakistan, my best wishes for success in the efforts now being made to find an early and enduring settlement of this important question.

(Signed) A. G. L. McNaughton
Permanent Representative of Canada
to the United Nations

Proposal in Respect of Jammu and Kashmir made on 22
December 1949 by General A. G. L. McNaughton
President of the Security Council, Pursuant to the
Decision of the Security Council taken at its 457th
Meeting on 17 December 1949

The principal considerations underlying the following proposals of the President of the Security Council are :

- (a) To determine the future of Jammu and Kashmir by the democratic method of a free and impartial plebiscite, to take place as early as possible;

- (b) Thus to settle this issue between the Governments of India and Pakistan in accordance with the freely expressed will of the inhabitants, as is desired by both Governments;
- (c) To preserve the substantial measure of agreement for fundamental principles which has already been reached between the two Governments under the auspices of the United Nations;
- (d) To avoid unprofitable discussion of disputed issues of the past, and to look forward into the future towards the good-neighbourly and constructive co-operations of the two great nations.

Demilitarization preparatory to the plebiscite

There should be an agreed programme of progressive demilitarization, the basic principle of which should be the reduction of armed forces on either side of the cease-fire line by withdrawal, disbandment and disarmament in such stages as not to cause fear at any point of time to the people on either side of the cease-fire line. The aim should be to reduce the armed personnel in the State of Jammu and Kashmir on each side of the ceasefire line to the minimum compatible with the maintenance of security and of local law and order, and to a level sufficiently low and with the force so disposed that they will not constitute a restriction on the free expression of opinion for the purposes of the plebiscite.

- (a) The programme of demilitarization should include the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan; and the withdrawal of the regular forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the cease-fire line; also the reduction, by disbanding and disarming, of local forces, including on the one side the armed forces and militia of the State of Kashmir and on the other, the *Azad* forces.
- (b) The "Nothern Area" should also be included in the above programme of demilitarization, and its administration should, subject to United Nations

supervision be continued by the existing local authorities.

Suggested basis of agreement

The Governments of India and Pakistan should reach agreement not later than 31 January 1950 in New York on the following points :

- (a) The Government of Pakistan should give unconditional assurance to the Government of India that it will deal effectively within its own borders with any possibility of tribal incursion into Jammu and Kashmir to the end that, under no circumstances, will tribesmen be able unlawfully to enter the State of Jammu and Kashmir from or through the territory of Pakistan. The Government of Pakistan should undertake to keep the senior United Nations military observer informed and to satisfy him that the arrangements to this end are and continue to be adequate.
- (b) The Governments of India and Pakistan should confirm the continued and unconditional inviolability of the cease-fire line.
- (c) Agreement should be reached on the basic principles of demilitarization outlined in paragraph 2 above.
- (d) Agreement should be reached on the minimum forces required for the maintenance of security and of local law and order, and on their general disposition.
- (e) Agreement should be reached on a date by which the reduction of forces, to the level envisaged in paragraph 2 above, is to be accomplished.
- (f) Agreement should be reached on the progressive steps to be taken in reducing and redistributing the forces to the level envisaged in paragraph 2 above.

In respect to the foregoing matters, the Governments of India and Pakistan should further agree that a United Nations representative, to be appointed by the Secretary-General of the United Nations in agreement with the two Governments, should supervise the execution of the progressive

steps in reduction and redistribution of armed forces and that it should be the responsibility of this United Nations representative to give assurance to the people on both sides of the cease-fire line that they have no cause for fear at any stage throughout the process. This United Nations representative should have the duty and authority :

- (a) Of interpreting the agreements reached between the parties pursuant to paragraph 3, sub-paragraphs (c), (d), (e) and (f) above; and
- (b) Of determining, in consultation with the Governments of India and Pakistan respectively, the implementation of the plans for the reduction and redistribution of armed forces referred to in sub-paragraph 3 (f) above.

When the agreed programme of demilitarization preparatory to the plebiscite has been accomplished to the satisfaction of the United Nations representative, the Plebiscite Administrator should proceed forthwith to exercise the functions assigned to him under the terms of the resolution of the United Nations Commission for India and Pakistan of 5 January 1949, which, together with the Commission's resolution of 13 August 1948, was accepted by the Governments of India and Pakistan and which are now reaffirmed by these Governments except in so far as the provisions therein contained are modified by the relevant provisions of this document. The functions and powers of the Plebiscite Administrator remain as set forth in the Commission's resolution of 5 January 1949.

The United Nations representative should be authorized to make any suggestions to the Governments of India and of Pakistan which, in his opinion, are likely to contribute to the expeditious and enduring solution of the Kashmir question and to place his good offices at their disposal.

[Prepared in identic copies to be delivered to Sir Girja Bajpai for the Government of India and to Sir Mohammad Zafrulla Khan for the Government of Pakistan, respectively.]

(Signed) A.G.L. McNaughton
President of the Security Council

